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Presidential Documents

Title 3—

The President

Proclamation 4942 of May 10, 1982

United States-Korea Centennial

By the President of the United States of America

A Proclamation

On May 22, 1882, representatives of the United States of America and the Kingdom of Korea concluded a Treaty of Peace, Amity, Commerce, and Navigation providing for the opening of diplomatic relations and the establishment of permanent resident missions in each capital. This Treaty marked a new chapter in the history of northeast Asia and was the auspicious beginning of an enduring partnership between the United States and Korea.

The intervening century has witnessed enormous change and progress in our two nations. Our relationship began when both of our nations were largely isolated from the main currents of world life. A century later, Korea and the United States are heavily engaged in all aspects of international endeavor. We have undergone remarkable social and economic transformations as well—from largely rural agricultural societies 100 years ago to the urban industrial economies of today. And, in the process, we have come to enjoy unprecedented levels of prosperity.

Americans are proud of the role they have played in Korean history, especially during these last 100 years. In 1945, American soldiers were crucial to the restoration of this ancient land's independence. Just five years later, Americans fought side-by-side with Korean soldiers in the struggle against the Communist invasion of 1950. Korea, in turn, made a major contribution to the United States' efforts to defeat Communist aggression in Vietnam.

Throughout this period, Americans and Koreans have enriched each other's cultures through the exchange of teachers, scholars and missionaries, and each other's economies through trade and scientific and technological cooperation. The United States applauds and welcomes the valuable contributions that citizens and residents of Korean ancestry have made and continue to make to our society.

Today Americans share many common values with the people of Korea. We believe that only in an atmosphere of freedom can full human potential be realized. We both have set high standards for education and achievement. We believe that an environment of free enterprise encourages initiative and innovation. And we both believe that hard work and diligence will lead to a better life and a better world for our children.

As we enter this second century of our relationship, we can look with satisfaction on our past accomplishments and with anticipation to the future. We will stand by our friends in Korea. In so doing we reaffirm our dedication to the principles of freedom and democracy as the basis of our continued strength and friendship. It is fitting then, that we now reflect upon our relations with this great nation and its people.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of May 16 through May 22 as a week of national observance of the centennial of the establishment of diplomatic relations between the United States and Korea and of the ties of friendship that bind our two peoples.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of May, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

Revision of the United States Standards for Beans

Correction

On Wednesday, May 5, 1982, revised U.S. standards for beans were published (FR Doc. 82-11854, page 19309). Beginning on page 19310 and ending on page 19313 are a series of tables. Formating problems made the tables difficult to use and understand for the convenience of the readers, the tables are reprinted below.

BILLING CODE 1505-01-M

GRADES, GRADE REQUIREMENTS, GRADE DESIGNATIONS, SPECIAL GRADES AND SPECIAL GRADE REQUIREMENTS

§68.133 Grades, Grade Requirements, Special Grades and Special Grade Requirements for the Class PEA BEANS.

SPECIAL GRADE and GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---						
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	BADLY DAMAGED	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	CLASSES THAT BLEND 3./
					TOTAL (includes Stones)	STONES		
U.S. Choice Handpicked	SHALL NOT GRADE OFF-COLOR	18.0	1.5	0.3	0.01	0.01	0.01	2.0
U.S. Prime Handpicked		18.0	3.0	0.3	0.01	0.01	0.01	2.0
U.S. No. 1		18.0	2.0	2.0	0.4	0.2	0.5	4.0
U.S. No. 2	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER THE REMOVAL OF TOTAL DEFECTS	18.0	3.0	3.0	0.8	0.4	1.0	4.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. Choice Handpicked through U.S. No. 2 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.					
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.					

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are classed Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are classed Mixed beans.

§68.134 Grades and Grade Requirements for the Class BLACKEYE BEANS.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---							
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGED	CLEAN CUT WEEVIL BORED 2./	FOREIGN MATERIAL		CONTRASTING CLASSES 3./	CLASSES THAT BLEND 4./
						TOTAL (includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	4.0	2.0	0.0	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	6.0	4.0	0.2	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	8.0	6.0	0.5	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.						
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered or weevily; which have any commercially objectionable odor; which contain insect webbing, or filth, animal filth, or any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.						

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 0.5 percent clean cut weevil bored beans are graded U.S. Sample grade.
3./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
4./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§68.135 Grades and Grade Requirements for the Classes YELLOWEYE BEANS and CRANBERRY BEANS.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---							
		MOISTURE 1./	TOTAL DEFECTS (Total damage, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGE	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	CLASSES THAT BLEND 3./	IN ADDITION TO CLASSES THAT BLEND, WHITE BEANS SIMILAR IN SIZE AND SHAPE IN THE CLASS YELLOWEYE BEANS
					TOTAL (Includes Stones)	STONES			
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	4.0	2.0	0.5	0.2	0.5	5.0	5.0
U.S. No. 2		18.0	6.0	4.0	1.0	0.4	1.0	10.0	5.0
U.S. No. 3		18.0	8.0	6.0	1.5	0.6	2.0	15.0	---
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3, or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.						
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.						

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§68.136 Grades and Grade Requirements for the Class PINTO BEANS.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---						
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material Contrasting classes, Splits)	TOTAL DAMAGED	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	CLASSES THAT BLEND 3./
					TOTAL (includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	3.0	3.0	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	5.0	5.0	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	7.0	7.0	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 and U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.					
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.					

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§68.137 Grades and Grade Requirements for the Classes MARROW, GREAT NORTHERN, SMALL WHITE, FLAT SMALL WHITE, WHITE KIDNEY, LIGHT RED KIDNEY, DARK RED KIDNEY, SMALL RED, PINK, BLACK TURTLE SOUP, and MISCELLANEOUS BEANS.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---						
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGED	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	CLASSES THAT BLEND 3./
					TOTAL (includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	2.0	2.0	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	4.0	4.0	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	6.0	6.0	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 or Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.					
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.					

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§68.138 Grades and Grade Requirements for the Class MUNG BEANS.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---							
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGED	CLEAN-CUT WEEVIL BORED 2./	FOREIGN MATERIAL		CONTRASTING CLASSES 3./	CLASSES THAT BLEND 4./
						TOTAL (includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	2.0	2.0	0.1	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	4.0	4.0	0.2	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	6.0	6.0	0.5	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the grade requirements for the grades U.S. No. 1 through U.S. No. 3 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.						
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments or are otherwise of distinctly low quality.						

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 0.5 percent clean cut weevil bored beans are graded U.S. Sample grade.
3./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
4./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§68.139 Grades and Grade Requirements for the Class LARGE LIMA BEANS.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---											
		MOISTURE 1./	TOTAL BLISTERED WRINKLED AND DEFECTS (Blistered, wrinkled, Total damage, Total foreign material, Contrasting classes, Splits)	DAMAGED BEANS		FOREIGN MATERIAL		CONTRASTING CLASSES 2./	SPLITS	BROKENS	CLASSES THAT BLEND 3./	BEANS THROUGH A SIEVE	
				TOTAL	BADLY DAMAGED	TOTAL (includes Stones)	STONES					28/64"	24/64"
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	6.0	2.0	0.5	0.5	0.2	0.5	3.0	5.0	5.0	25	5
U.S. No. 2		18.0	9.0	3.0	1.0	1.0	0.3	1.0	5.0	5.0	10.0	40	5
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 2 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.										
U.S. Sample Grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.										

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§68.140 Grades and Grade Requirements
for the Classes BABY LIMA and MISCELLANEOUS LIMA BEANS.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---								
		MOISTURE 1./	TOTAL DEFECTS (Total damage, Total foreign material, Contrasting classes)	BADLY DAMAGED	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	BLISTERED WRINKLED AND/OR BROKEN	SPLITS	CLASSES THAT BLEND 3./
					TOTAL (includes Stones)	STONES				
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	2.0	1.0	0.5	0.2	0.5	3.0	3.0	5.0
U.S. No. 2		18.0	3.0	1.5	1.0	0.3	1.0	5.0	5.0	10.0
U.S. No. 3		18.0	5.0	2.0	1.5	0.6	2.0	8.0	8.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 and U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.							
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.							

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

BILLING CODE 1505-01-C

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 690; Valencia Orange Reg. 689, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 14–20, 1982, and increases the quantity of such oranges that may be so shipped during the period May 7–13, 1982. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective May 14, 1982, and the amendment is effective for the period May 7–13, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on February 5, 1982. The committee met again publicly on May 11, 1982, at Lindsay, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. Section 908.990 is added as follows:

§ 908.990 Valencia Orange Regulation 690.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period May 14, 1982, through May 20, 1982, are established as follows:

(1) District 1: 459,000 cartons;

(2) District 2: 441,000 cartons;

(3) District 3: Unlimited cartons.

2. Section 908.989 Valencia Orange Regulation 689 (47 FR 19511), is hereby amended to read:

§ 908.989 Valencia Orange Regulation 689.

* * * * *

(1) District 1: 564,000 cartons

(2) District 2: 586,000 cartons

(3) District 3: Unlimited cartons.

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

Dated: May 12, 1982.

D. S. Kuryloski,

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

[FR Doc. 82–13282 Filed 5–12–82; 11:27 am]

BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Part 213

[Reg. M; CL–1]

Consumer Leasing; Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation.

SUMMARY: In accordance with 12 CFR 213.1(d), the Board's staff is publishing a final official staff commentary to Regulation M (Consumer Leasing). The commentary applies and interprets the requirements of the regulation and is intended to replace individual Board and staff interpretations. Good faith compliance affords lessors protection from civil liability under section 130(f) of the Truth in Lending Act.

EFFECTIVE DATE: May 12, 1982.

FOR FURTHER INFORMATION CONTACT: Claudia J. Yarus or Steve Zeisel, Staff Attorneys (202–452–3667), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: (1) *Introduction.* The Board adopted Regulation M (46 FR 20949, April 7, 1981), effective April 1, 1981, to implement the consumer leasing provisions of the Truth in Lending Act. The leasing rules were formerly contained in Regulation Z, 12 CFR Part 226. Compliance with the new regulation becomes mandatory on October 1, 1982 (Pub. L. 97–110, Dec. 26, 1981). Until that time, lessors may comply with either Regulation M or the previous version of Regulation Z.

The Truth in Lending Simplification and Reform Act (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96–221) made extensive revisions to the credit provisions of Truth in Lending, but it affected consumer leasing only slightly. When Regulation Z was revised in 1981, the leasing rules were removed and consolidated as Regulation M. Apart from a few minor changes warranted by the amendments to the act, Regulation M adopted almost verbatim the leasing rules of Regulation Z.

The commentary modifies the staff's approach to providing interpretations of the leasing provisions formerly in Regulation Z. Under the previous regulation, individual staff opinions were issued in response to inquiries about specific fact situations and were

normally limited to those facts. While this commentary provides specific guidance and examples, it employs language that is of more general application for use by the widest possible audience. The commentary attempts to provide sufficient guidance without overburdening the industry with excessive detail and multiple research sources. As the vehicle for additional staff interpretations, it will be revised periodically to address new questions.

The final commentary adopts the substance of most of the individual leasing interpretations issued under previous Regulation Z. However, interpretations have not been incorporated if they repeat information found elsewhere, if they have been rendered valueless by the passage of time, or if they deal with facts that are unique or too particular to warrant treatment in the commentary. Previous staff opinion letters, whether official or unofficial, can provide no certain guidance in complying with Regulation M. They were issued as interpretations of previous Regulation Z only and are entirely superseded by this commentary for purposes of interpreting Regulation M. Of course, they may still be utilized by courts and administrative agencies in determining liability for violations of the previous Regulation Z leasing provisions.

A proposed version of the commentary was published in **Federal Register** on October 13, 1981 (46 FR 50380) and elicited 22 responses from lessors, trade associations and one Reserve Bank. Numerous changes to the substance of the proposal were requested; many have been adopted in the final commentary. Several comments reflected confusion about the meaning of certain provisions. Those provisions have been revised and clarified. In addition, many minor editorial and structural changes suggested by commenters have been incorporated.

To accommodate substantive and editorial changes, some sections of the commentary were restructured, and comments were added or deleted as necessary. As a result, the location of a comment may differ from its original location in the proposal. In general, the staff has attempted to place comments in the single most appropriate and useful place, providing cross-references where necessary.

Some of the provisions in the commentary that were changed substantively from the proposal are listed below. The list is not exhaustive; it is merely intended to give examples of the types of changes that have been made.

Section 213.2—Definitions and Rules of Construction

- Comment 2(a)(8)–1 discusses when an assignee may be considered a lessor.
- Comment 2(a)(15)–2 identifies disclosable security interests.
- Comment 2(a)(17)–3 clarifies the components of the periodic payments which are used to calculate the total lease obligation.

Section 213.4—Disclosures

- Comments 4(a)–1 through –5 describe the basis of disclosures, minor variations, form of disclosures, number of transactions and treatment of rebates in lease transactions.
- Comment 4(a)(2)–3 explains who makes disclosures in multiple lessor transactions and who receives disclosures in multiple lessee transactions.
- Comment 4(g)(15)–3 discusses when taxes are included in the total lease obligation.
- Comments 4(h)–1 through –10 explain the relationship between renegotiations and extensions and clarify how the lessor determines when there is either a renegotiation or an extension.

Commenters suggested some modifications to the commentary that are incorporated at this time. The modifications concerned issues such as calculating the total contractual obligation for purposes of the consumer lease definition in § 213.2(a)(6), and changes to the definition of "consummation." These changes were not anticipated in the proposal and did not receive adequate comment. However, they may be the subject of clarification or adjustment in a future commentary revision.

Other suggested changes were not made because they were contrary to requirements in both the regulation and statute. The staff is currently studying the Consumer Leasing Act to assist the Board in determining whether to recommend statutory amendments to Congress.

List of Subjects in 12 CFR Part 213

Advertising; Banks, banking; Consumer protection; Federal Reserve System; Leasing; Penalties; Truth in lending.

Authority. 15 U.S.C. 1640(f).

Part 213 is amended by adding Supplement I to read as follows:

SUPPLEMENT I–CL–1—Official Staff Commentary to Regulation M

Introduction

1. *Official status.* This commentary is the vehicle by which the staff of the Division of Consumer and Community Affairs of the Federal Reserve Board issues official staff interpretations of Regulation M, effective April 1, 1981. Good faith compliance with this commentary affords protection from liability under section 130(f) of the Truth in Lending Act (15 U.S.C. 1640). Section 130(f) protects lessors from civil liability for any act done or omitted in good faith in conformity with any interpretation issued by a duly authorized official or employee of the Federal Reserve System.

2. *Procedures for requesting interpretations.* Under section 213.1(d) of the regulation, anyone may request an official staff interpretation. Interpretations that are adopted will be incorporated in this commentary following publication in the **Federal Register**. No official staff interpretations are expected to be issued other than by means of this commentary.

3. *Status of previous interpretations.* All statements and opinions issued by the Federal Reserve Board and its staff interpreting previous Regulation Z remain effective until October 1, 1982, only insofar as they interpret that regulation. When compliance with Regulation M becomes mandatory on October 1, 1982, the Board and staff interpretations of the previous Regulation Z leasing provisions will be entirely superseded by Regulation M and this commentary, except with regard to liability under the previous regulation.

4. *Rules of construction.* (a) Lists that appear in the commentary may be exhaustive or illustrative; the appropriate construction should be clear from the context. In most cases, illustrative lists are introduced by phrases such as "including, but not limited to," "among other things," "for example," or "such as."

(b) Throughout the commentary and regulation, reference to the regulation should be construed to refer to Regulation M, unless the context indicates that a reference to previous Regulation Z (12 CFR Part 226) is also intended.

(c) Throughout the commentary, reference to "this section" or "this paragraph" means the section or paragraph in the regulation that is the subject of the comment.

5. *Comment designations.* Each comment in the commentary is identified by a number and the regulatory section or paragraph that it interprets. The comments are designated with as much specificity as possible according to the particular regulatory provision addressed. For example, some of the comments to section 213.4(a) are further divided by subparagraph, such as comment 4(a)(1)–1 and comment 4(a)(1)–2. In other cases, comments have more general application and are designated, for example, as comment 4(a)–1. This introduction may be cited as comments I–1 through I–6. The appendices may be cited as comments app. C–1 and app. C–2.

6. *Cross-references.* The following cross-references to related material appear at the end of each section of the commentary: (a) "Statute"—those sections of the Truth in Lending Act on which the regulatory provision is based; (b) "Other sections"—other provisions in the regulation necessary to understand that section; (c) "Previous regulation"—parallel provisions in previous Regulation Z; and (d) "1981 changes"—a brief description of the major regulatory changes made when the leasing rules were moved from previous Regulation Z to Regulation M.

Section 213.1—General Provisions

1. *Foreign applicability.* Regulation M applies to all persons (including branches of foreign banks or leasing companies located in the United States) that offer consumer leases to residents (including resident aliens) of any state as defined in § 213.2(a)(16). The regulation does not apply to a foreign branch of a U.S. bank or leasing company leasing to a U.S. citizen residing or visiting abroad or to a foreign national abroad.

2. *Issuance of staff interpretations.* This commentary is the method by which the staff provides interpretations that afford formal protection under section 130(f) of the act. This commentary may be amended periodically.

References:

Statute: §§ 102(b), 105, and 130(f).
Previous regulation: § 226.1.
1981 changes: None.

Section 213.2—Definitions and Rules of Construction

2(a) Definitions.
2(a)(2) "Advertisement"

1. *Coverage.* Only commercial messages that promote consumer lease transactions requiring disclosures are advertisements. Messages inviting, offering, or otherwise announcing generally to prospective customers the availability of consumer leases, whether in visual, oral, or print media, are covered by the definition. The list of examples in the definition is not exhaustive; telephone solicitations and letters sent to customers as part of an organized solicitation of business, for example, are also advertisements. The term does *not* include the following:

- Direct personal contacts, such as follow-up letters, cost estimates for individual lessees, or oral or written communications relating to the negotiation of a specific transaction.
- Informational material distributed only to businesses.
- Notices required by federal or state law, if the law mandates that specific information be displayed and only the information so mandated is included in the notice.
- News articles, the use of which is controlled by the news medium.
- Market research or educational materials that do not solicit business.

2. *Persons covered.* See the commentary to § 213.5(a).

2(a)(4) "Arrange for lease of personal property"

1. *General.* The definition of lessor in § 213.2(a)(8) includes one who, in the ordinary course of business, regularly arranges for the leasing of personal property. For example:

- An automobile dealer who, pursuant to a business relationship, completes the necessary lease agreement before forwarding it to the leasing company (to whom the obligation is payable on its face) for execution is "arranging" for the lease.
- An automobile dealer who, receiving no fee for the service, refers a customer to a leasing company that will prepare all relevant contract documents is not "arranging" for the lease.

2. *Multiple lessors.* See the commentary to § 213.4(c).

3. *Consideration.* The term "other consideration" refers to an actual payment corresponding to a fee or similar compensation. It does not refer to intangible benefits, such as the advantage of increased business, that may flow from the relationship between the parties.

2(a)(6) "Consumer lease".

1. *Primary purposes.* A lessor must determine in each case if the leased property will be used primarily for personal, family, or household purposes. If some question exists as to the primary purpose for a lease, the lessor is, of course, free to make the disclosures, and the fact that disclosures are made in such circumstances is not controlling on the question of whether the transaction was exempt. The primary purpose of a lease is generally determined before or at consummation and a subsequent change in primary usage is governed by § 213.4(e).

2. *Period of time.* To be a consumer lease, the initial term of the lease must be more than 4 months. Thus, a lease of personal property for 4 months, 3 months or on a month-to-month or week-to-week basis (even though the lease actually extends beyond 4 months) is not a consumer lease and is not subject to the disclosure requirements of the regulation. A lease with a penalty for cancelling during the first 4 months is considered to have a term of more than 4 months. A month-to-month or week-to-week extension of a lease that was originally for 4 months or less is not a consumer lease, even if the extension actually lasts for more than 4 months. For example, a 3-month lease extended on a month-to-month basis and terminated after 1 year does not require consumer lease disclosures.

3. *Organization.* A consumer lease does not include a lease made to an organization, as defined in § 213.2(a)(9). A lease to an organization is outside the requirements of the regulation even if the property is used (by an employee, for example) primarily for personal, family or household purposes. Likewise, a lease made to an organization is not a consumer lease even if it is guaranteed by or subsequently assigned to a natural person.

4. *Credit sale.* A lease that meets the definition of a credit sale in Regulation Z, 12 CFR 226.2(a)(16), is not a consumer lease. Regulation Z defines a credit sale, in part, as "a bailment or lease (unless terminable without penalty at any time by the consumer) under which the consumer—

(i) Agrees to pay as compensation for use a sum substantially equivalent to, or in excess of, the total value of the property and services involved; and

(ii) Will become (or has the option to become), for no additional consideration or for nominal consideration, the owner of the property upon compliance with the agreement."

5. *Safe deposit boxes.* A lease of a safe deposit box is not a consumer lease for purposes of this regulation.

6. *Leases of personal property incidental to a service.* The following leases of personal property that are incidental to services are not consumer leases subject to the requirements of the regulation:

- Home entertainment systems requiring the consumer to lease equipment that enables a television to receive the transmitted programming.
- Burglar alarm systems requiring the installation of leased equipment that

triggers a telephone call when a home is burglarized.

2(a)(7) "Lessee".

1. *Guarantors.* Guarantors are not lessees for purposes of the regulation.

2(a)(8) "Lessor".

1. *Assignees.* An assignee may be a lessor for purposes of the regulation in circumstances such as those described in "Ford Motor Credit Co. v. Cenance," 452 U.S. 155, 101 S.Ct. 2239 (1981). In that case, the Supreme Court held that an assignee was a creditor for purposes of previous Regulation Z because of its substantial involvement in the credit transaction.

2(a)(9) "Organization".

1. *Coverage.* The term includes joint ventures and persons operating under a business name.

2(a)(12) "Personal property".

1. *Coverage.* Whether property is considered personal property depends on state or other applicable law. For example, a mobile home or houseboat may be considered personal property in one state but real property in another.

2(a)(14) "Realized value".

1. *General.* Realized value is not a required disclosure. It refers to the value of the property at early termination or at the end of the lease term. It may be either the retail or wholesale value. Realized value is relevant only to leases in which the lessee's liability at early termination or at the end of the lease term is the difference between the estimated value of the property and its realized value.

2. *Options.* Subject to the contract and to state or other applicable law, the lessor may choose any of the 3 methods for calculating the realized value in determining the lessee's liability at the end of the lease term or at early termination. If the lessor sells the property prior to making that determination, the price received for the property is the realized value. If the lessor does not sell the property prior to making that determination, the lessor may choose either the highest offer or the fair market value as the realized value.

3. *Exclusions.* The realized value may exclude any amount attributable to taxes.

4. *Disposition charges.* Disposition charges may not be subtracted in determining the realized value. If the lessor charges the lessee a fee to cover the disposition expenses, the fee must be disclosed at consummation under § 213.4(g)(5). Disposition charges may be estimated in accordance with § 213.4(d), and this does not prevent the lessor from collecting the actual disposition costs incurred.

5. *Offers.* In determining the highest offer for disposition, the lessor need not consider offers that the offeror has withdrawn or is unable or unwilling to perform.

6. *Appraisals.* The lessor may obtain an appraisal of the leased property to determine its realized value. Such an appraisal, however, is not the one addressed in section 183(c) of the act and § 213.4(g)(14); those provisions refer to the lessee's right to an independent professional appraisal.

2(a)(15) "Security interest".

1. *Coverage.* The list of security interests in the definition is not exhaustive. Other than those listed, only interests that are security interests under state or other applicable law are encompassed by the definition. For example, any interest the lessor may have in the leased property falls within this definition only if it is considered a security interest under state or other applicable law.

2. *Disclosable interests.* For purposes of the regulation, a security interest is an interest taken by the lessor to secure performance of the lessee's obligation. For example, if a bank that is not a lessor makes a loan to a leasing company and takes assignments of consumer leases generated by that company to secure the loan, the bank's security interest in the lessor's receivables is not a security interest for purposes of this regulation.

3. *Insurance.* The lessor's right to insurance proceeds or unearned insurance premiums is not a security interest for purposes of this regulation.

2(a)(17) "Total lease obligation".

1. *Disclosure.* The total lease obligation is disclosed under § 213.4(g)(15)(i). It is relevant only to so-called open-end leases in which the lessee's liability at the end of the lease term is based on the difference between the estimated value of the leased property and its realized value.

2. *Periodic payments: disclosure distinguished.* Certain items that may be paid periodically are not part of the lessee's total lease obligation. Therefore, the amount of the scheduled periodic payments for purposes of calculating the total lease obligation may be less than the amount of the periodic payments disclosed under § 213.4(g)(3).

3. *Periodic payments: inclusions and exclusions.* The total of scheduled periodic payments under the lease for purposes of calculating the total lease obligation is composed of the following items:

- Any portion of the periodic payments attributable to depreciation, cost of money, and profit.
- Taxes in some cases. See the commentary to § 213.4(g)(15).
- The capitalized cost of mechanical breakdown protection contracts.

The total of scheduled periodic payments under the lease for purposes of calculating the total lease obligation does *not* include the following:

- Any amount not paid periodically.
- Any portion or periodic payments attributable to official fees, registration, certificate of title, or license fees.
- Taxes in some cases. See the commentary to § 213.4(g)(15).

At the lessor's option, the capitalized cost of service contracts and insurance premiums may be either included or excluded from this calculation.

4. *Initial payments.* The following amounts are *not* included among the payments at consummation when calculating the total lease obligation:

- Refundable security deposits.
- Official fees and charges disclosable under § 213.4(g)(4).
- "Other charges" disclosable under § 213.4(g)(5).
- The cost of a mechanical breakdown protection contract purchased at consummation.

5. *Estimated value.* See the commentary to § 213.4(d) regarding the use of estimates and § 183(a) of the act regarding the criteria for estimating the value of the leased property at the end of the lease term.

2(a)(18) "Value at consummation".

1. *Disclosure.* The value at consummation is relevant only to so-called open-end leases and is disclosed and subtracted from the total lease obligation under § 213.4(g)(15)(i).

2. *Taxes.* The value at consummation includes taxes paid by the lessor in connection with the acquisition of leased property and amortized over the lease term. See the commentary to § 213.4(g)(15).

3. *Other amounts.* The definition of the value at consummation explicitly permits the lessor to include a profit or markup (without separate itemization). The lessor may include costs of doing business, such as insurance that the lessor purchases on its own behalf. See the commentary to § 213.4(g)(6). The lessor may not include in this amnount other items (such as maintenance or extended warranty insurance) that are purchased by the lessee.

2(b) Rules of construction.

1. *Footnotes.* Material that appears in a footnote has the same legal weight as material in the body of the regulation.

2. *Consummation.* When a contractual relationship is created between the lessor and the lessee is a matter to be determined under state or other

applicable law; the regulation does not make that determination.

Consummation does not occur merely because the lessee has made some financial investment in the transaction (for example, by paying a nonrefundable fee) unless, of course, applicable law holds otherwise.

References

Statute: Sections 103(g) and 181.
Previous regulation: § 226.2.
1981 changes: "Agricultural purpose" has been slightly revised to conform to the amended act.

Section 213.3—Exempted Transactions

References

Statute: § 105(a).
Previous regulation: § 226.3(f).
1981 changes: None.

Section 213.4—Disclosures

4(a) General requirements.

1. *Basis of disclosures.* The regulation assumes that parties will perform fully according to the lease terms. For example:

• In a 3-year lease with a 1-year minimum term after which there is no penalty for termination, disclosures should be based on the full 3-year term of the lease. The 1-year minimum term is only relevent to the early termination provisions of § 213.4(g) (12), (13), and (14).

2. *Minor variations.* The lessor may disregard the effects of the following in making calculations and disclosures:

• That payments must be collected in whole cents.

• That dates of scheduled payments may be changed because the scheduled date is not a business day.

• That months have different numbers of days.

3. *Form of disclosures.* In making disclosures lessors may cross-reference rather than repeat items that are disclosed elsewhere in the lease disclosure statement. In addition, when a required disclosure consists of a single charge, lessors do not have to repeat the charge as an itemization and a total amount. See the commentary to § 213.4(g) (5) and (15).

4. *Number of transactions.* Lessors have flexibility in handling lease transactions that may be viewed as multiple transactions. For example:

• When a lessor leases two items to the same lessee on the same day, the lessor may disclose the leases as either one or two lease transactions.

• When a lessor sells insurance or other incidental services in connection with a lease, the lessor may disclose in one of two ways: a single lease transaction or a lease and credit sale transaction.

5. *Rebates.* In a lease transaction, a seller's or manufacturer's rebate may be offered to prospective lessees. At the lessor's option, these rebates may be either reflected in or disregarded in the lease disclosures required under the regulation. If the lessor chooses to reflect the rebate in the leasing disclosures, it may be taken into account in any manner as part of those disclosures.

Paragraph 4(a)(1).

1. *Clearly, conspicuously and in meaningful sequence.* This standard requires that disclosures be in a reasonably understandable form. For example, while the regulation requires no particular mathematical progression or format, the disclosures must be presented in a way that does not obscure the relationship of the terms to each other. Appendix C contains model forms that meet this standard, although lessors are not required to use these forms. The requirement that disclosures be made clearly and conspicuously does not mean that they must be more conspicuous than other terms in a combined contract-disclosure statement, nor does it preclude the use of a multi-purpose disclosure form that enables the lessor to designate the specific disclosures applicable to a given transaction. See the commentary to Appendix C.

2. *Type size.* The term "point" in the phrase "10-point type" is a printing term that refers to the size of the body of the type, as distinguished from the size of the type face which may vary among different print manufacturers.

Paragraph 4(a)(2).

1. *Consummation.* See the commentary to § 213.2(b).

2. *Identification of parties.* While disclosures must always be made clearly and conspicuously, it is not necessary to use the words "lessor" or "lessee" when identifying those parties.

3. *Mutiple lessors and multiple lessees.* In transactions involving multiple lessors and lessees, the disclosure statement must identify all the lessors and lessees; however, § 213.4(c) permits a single lessor to make all the disclosures to a single lessee.

4. *Integrated lease/disclosure forms.* Contract terms or disclosures that are not required by the regulation may be added to the disclosure statement so long as the required disclosures are made together on a single page (which may include both sides) and above the place for the lessee's signature. Generally, other terms and disclosures may precede, follow, or be intermingled with the regulation's disclosures within the limits of § 213.4(b) governing the use of additional information and the clear, conspicuous, and meaningful sequence disclosure standard in § 213.4(a)(1).

5. *Lessee's signature.* The regulation does not require the lessee to sign the disclosures but, if disclosures are combined with contract terms, the lessor may require the lessee's signature for contract or evidentiary purposes. In such a case, the disclosures must be made above the place for the lessee's signature. When disclosures and contract terms appear on both sides of a page, the consumer's signature usually appears on the bottom of the second side. For purposes of the regulation, the consumer's signature may appear on the bottom of the first side if all the disclosures appear on that side.

Paragraph 4(a)(4).

1. *Permissible uses.* If the lessor chooses to provide foreign-language translations of the disclosures or is required to do so by state, federal, or local law, the translations are not inconsistent per se with disclosures under the regulation and may be provided as additional information under § 213.4(b).

2. *Advertisements in Puerto Rico.* The requirement for providing English disclosures upon request does not apply to advertisements subject to § 213.5 of the regulation.

4(b) Additional information.

1. *State law disclosures.* If state law disclosures are not inconsistent with the act and regulation under § 213.7, the lessor may make those disclosures in accordance with the first sentence of this paragraph. If state law disclosures are inconsistent under § 213.7 and the lessor elects to make them, it must do so in accordance with the second sentence of this paragraph.

4(c) Multiple lessors; multiple lessees.

1. *Multiple lessors.* If a lease transaction involves more than one lessor, the lessors may choose which of them will make the disclosures. All disclosures for the transaction must be given, even if the disclosing lessor would not otherwise have been obligated to make a particular disclosure.

4(d) Unknown-information estimate.

1. *Time of estimated disclosure.* The lessor may use estimates to make disclosures if necessary information is unknown or unavailable at the time the disclosures are made. For example:

• Section 213.4(g)(4) requires the lessor to disclose the total amount payable by the lessee during the lease term for official fees, registration, certificate of title, license fees, or taxes.

If these amounts are subject to indeterminable increases or decreases over the course of the lease, the lessor may estimate its disclosures based on the rates or charges in effect at the time of disclosure.

2. *Basis of estimates.* Estimates must be made on the basis of the best information reasonably available at the time disclosures are made. The "reasonably available" standard requires that the lessor, acting in good faith, exercise due diligence in obtaining information. The lessor normally may rely on the representations of other parties in obtaining information. For example, the lessor might look to the consumer to determine the purpose for which leased property will be used, to insurance companies for the cost of insurance, or to an automobile manufacturer or dealer for the date of delivery.

3. *Estimated value of leased property at termination.* When the lessee's liability at the end of the lease term is based on the estimated value of the leased property (see § 213.4(g)(15)), the estimate must be reasonable and based on the best information reasonably available to the lessor. That standard permits a lessor to use a generally accepted trade publication listing estimated current or future market prices for the leased property, rather than investing in the most sophisticated computer equipment to derive the estimated value at the end of the lease term. The lessor should rely on other information, its experience, or reasonable belief, if those sources provide the best information. For example:

- An automobile lessor offering a 3-year open-end lease intends to assign a wholesale value to the vehicle at the end of the lease term. The lessor may disclose as an estimated value a wholesale value derived from a credible trade publication listing current wholesale values, if the trade publication is the best information available.
- Same facts as above, except that the lessor discloses an estimated value derived by adjusting the value quoted in the trade publication because, in its experience, the trade publication values either understate or overstate the prices actually received in local used vehicle markets. The lessor may adjust estimated values quoted in trade publications based on the lessor's experience or reasonable belief that such values will be understated or overstated.

4. *Retail or wholesale value.* The lessor may choose either a retail or a wholesale value in estimating the value of the leased property at termination, provided that choice is consistent with the lessor's general practice or intention when determining the value of the property at the end of the lease term.

5. *Labelling estimates.* Generally, only the particular disclosure for which the exact information is unknown is labelled as an estimate. However, when several disclosures are affected because of the unknown information, the lessor has the option of labelling as an estimate either every affected disclosure or only the disclosure primarily affected.

6. *Understating the estimated value.* In non-purchase-option leases, the lessor may not use a value lower than that indicated by the best information available when disclosing the estimated value of leased property at the end of the lease term under § 213.4(g)(15).

4(e) Effect of subsequent occurrence.

1. *Subsequent occurrences.* Examples of subsequent occurrences include:

- A change from a monthly to a weekly payment schedule.
- The addition of insurance or a security interest by the lessor because the lessee has not performed obligations contracted for in the lease.
- An increase in official fees or taxes. See the commentary to § 213.4(d).
- An increase in insurance premium or coverage caused by a change in law.
- Late delivery of an automobile caused by a strike.
- 2. *Redisclosure.* When a disclosure becomes inaccurate because of a subsequent occurrence, the lessor need not make new disclosures unless new disclosures are required under § 213.4(h).

4(g) Specific disclosure requirements.

1. *Inapplicable disclosures.* The disclosures required by this section need be made only as applicable. Any disclosure not relevant to a particular transaction may be eliminated entirely. For example, if the lessor does not take a security interest, no disclosure is required under § 213.4(g)(9). See the commentary to Appendix C.

2. *Other required disclosures.* The disclosure statement must include the date and identify the lessor and the lessee. See the commentary to § 213.4(a)(2). The lessor need only be identified by name; no address is required.

Paragraph 4(g)(1).

1. *Multiple-item lease.* In a multiple-item lease, the property may be described in separate statements as provided in § 213.4(a)(3).

Paragraph 4(g)(2).

1. *Itemization not required.* The lessor must disclose one total initial payment amount and identify the components of this one amount (for example, capitalized cost reduction, mechanical breakdown protection, registration fees). The lessor may, but need not, disclose the dollar amount of each component.

2. *Consummation.* See the commentary to § 213.2(b).

3. *Fees payable upon delivery.* This provision does not apply to fees paid at delivery, when delivery occurs after consummation. For example:

- The lessee agrees to pay registration fees, sales taxes, and a delivery charge in one lump sum on the date the automobile is delivered, some time after consummation. None of these charges is an initial payment under § 213.4(g)(2) because they are paid after consummation of the lease. The registration fees and sales taxes are disclosed under § 213.4(g)(4), and the delivery charge is disclosed as an "other charge" under § 213.4(g)(5).

Paragraph 4(g)(3).

1. *Itemization not required.* Section 213.4(g)(3) does not require the lessor to itemize the components of the periodic payments. Some of the components must be disclosed separately if their disclosure is required by other provisions of the regulation, such as official fees and lessee's insurance.

2. *Periodic payments.* The phrase "number, amount, and due dates or periods of payments" requires the disclosure of all payments made periodically. The disclosed payments must include all amounts, such as maintenance and insurance charges, that are paid periodically. In addition, the lessor must disclose the total of such periodic payments. In an open-end lease, however, the lessor may disclose as the total of periodic payments the sum of the scheduled periodic payments referred to in § 213.2(a)(17). See the commentary to § 213.2(a)(17).

Paragraph 4(g)(4).

1. *Taxes.* Taxes that are included in the value at consummation are not disclosed pursuant to this paragraph. See the commentary to § 213.2(a)(18).

Paragraph 4(g)(5).

1. *Coverage.* Section 213.4(g)(5) requires the disclosure of charges that are anticipated by the parties as incident to the normal operation of the lease agreement. It does not require disclosure of charges that are imposed when the lessee terminates early or fails to abide by the lease agreement, such as charges for:

- Late payment.
- Default.
- Early termination.
- Deferral of payments.
- Extension of the lease.

2. *Form of disclosure.* Although the disclosure of an other charge or the total

of all other charges must be clear and conspicuous, the lessor need not use the specific terminology "other charge." Moreover, the regulation does not impose a location requirement for the disclosure of other charges. For example:

• A lessor has a single other charge, which is a disposition fee of $100. The lessor may disclose the disposition fee with related disclosures about early or scheduled termination. It may but need not repeat the charge as a total with the label of "other charge" or show a total of other charges.

3. *Relationship to other provisions.* The other charges mentioned in § 213.4(g)(5) are charges that are not required to be disclosed under another provision of § 213.4(g). For example:

• A delivery charge that is paid after consummation is disclosed as an "other charge." A delivery charge that is paid at consummation, however, is disclosed as part of the total initial charges under § 213.4(g)(2), not as an "other charge."

• Occasionally, the price of a mechanical breakdown protection (MBP) contract is disclosed as an "other charge." More often, the price of MBP is reflected in the periodic payment disclosure under § 213.4(g)(3), in which case it is not disclosed as an "other charge". In states where MBP is regarded as insurance, however, the cost should be disclosed in accordance with § 213.4(g)(6), not as an "other charge." See the commentary to § 213.4(g)(6).

4. *Lessee liabilties at the end of the lease term.* Liabilities that the lease imposes upon the lessee at the end of the scheduled lease term and that must be disclosed include, but are not limited to, disposition and "pick-up" charges.

Paragraph 4(g)(6).

1. *Lessor's insurance.* Insurance that is purchased by the lessor primarily for its own benefit, and that is absorbed as a business expense and not separately charged to the lessee, need not be disclosed under § 213.4(g)(6) even if it provides an incidental benefit to the lessee.

2. *Mechanical breakdown protection.* Whether mechanical breakdown protection (MBP) purchased in conjunction with a lease should be treated as insurance is determined by state or other applicable law. In states that do not treat MBP as insurance, the lessor need not make § 213.4(g)(6) disclosures. The lessor may, however, disclose the § 213.4(g)(6) information in such cases in accordance with the additional information provision in § 213.4(b).

Paragraph 4(g)(7).

1. *Brief identification.* The statement identifying warranties may be brief. For example, manufacturer's warranties may be identified simply by a reference to the standard manufacturer's warranty.

2. *Warranty disclaimers.* Although a disclaimer of warranties is not required by the regulation, the lessor may give a disclaimer as additional information in accordance with § 213.4(b).

3. *State law.* Whether an express warranty or guaranty exists is determined by state or other applicable law.

Paragraph 4(g)(8).

1. *Standards for wear and use.* The lessor is permitted, but not required, to set standards for wear and use (such as excess mileage). The disclosure may be omitted by lessors that do not set such standards. See the commentary to § 213.4(g)(15).

Paragraph 4(g)(9).

1. *Disclosable security interests.* See § 213.2(a)(15) and accompanying commentary to determine what security interests must be disclosed.

Paragraph 4(g)(10).

1. *Collection costs.* The automatic imposition of collection costs or attorney fees upon default must be disclosed under § 213.4(g)(10). Collection costs or attorney fees that are not imposed automatically, but are contingent upon expenditure of amounts in conjunction with a collection proceeding or upon the employment of an attorney to effect collection, need not be disclosed.

2. *Charges for early termination.* When default is a condition for early termination of a lease, default charges must also be disclosed under § 213.4(g)(12). The § 213.4(g)(10) and (12) disclosures may be combined. Examples of combined disclosures are provided in the model lease disclosure forms in Appendix C.

3. *Simple-interest leases.* In a simple-interest accounting lease, the additional lease charge that accrues on the lease balance when a periodic payment is made after the due date does not constitute a penalty or other charge for late payment. Similarly, continued accrual of the lease charge after termination of the lease because the lessee fails to return the leased property does not constitute a default charge. In either case, if the additional charge accrues at a rate higher than the normal lease charge, the lessor must disclose the amount of or the method of determining the additional charge under § 213.4(g)(10).

4. *Extension charges.* Extension charges that exceed the lease charge in a simple-interest accounting lease or that are added separately are disclosed under § 213.4(g)(10).

5. *Reasonableness of charges.* Penalties or other charges for delinquency, default, or early termination may be specified in the lease but only in an amount that is reasonable. Section 183(b) of the act sets forth the standards for determining a reasonable penalty or charge.

Paragraph 4(g)(11).

1. *Mandatory disclosure of no purchase option.* Although generally the lessor need only make the specific required disclosures that apply to a transaction, it must disclose affirmatively that the lessee has no option to purchase the leased property when the purchase option is inapplicable.

2. *Existence of purchase option.* Whether a purchase option exists is determined by state or other applicable law. The lessee's right to submit a bid to purchase property at termination of the lease is not an option to purchase under § 213.4(g)(11) if the lessor is not required to accept the lessee's bid and the lessee does not receive preferential treatment.

3. *Purchase option fees.* A purchase option fee must be disclosed under this paragraph unless the lessor discloses the fee under § 213.4(g)(5) as an other charge.

Paragraph 4(g)(12).

1. *Default.* When default is also a condition for early termination of a lease, default charges must be disclosed under this paragraph. See the commentary to § 213.4(g)(10).

2. *Lessee's liability at early termination.* When the lessee is liable for the difference between the unamortized capitalized cost and the realized value at early termination, the amount or the method of determining the amount of the difference must be disclosed under this paragraph.

3. *Reasonableness of charges.* Penalties or other charges for delinquency, default, or early termination may be specified in the lease but only in an amount that is reasonable. Section 183(b) of the act sets forth the standards for determining a reasonable penalty or charge.

Paragraph 4(g)(14).

1. *Disclosure inapplicable.* When the lessee is liable at the end of the lease term or at early termination for unreasonable wear or use but *not* for the estimated value of the leased property, the lessor need not disclose the lessee's right to an independent appraisal. For example:

• The automobile lessor may reasonably expect a lessee to return an undented car with four good tires at the

end of the lease term. Even though it holds the lessee liable for the difference between a dented car with bald tires and the value of a car in reasonably good repair, the lessor is not required to disclose the lessee's appraisal right.

2. *Lessor's appraisal.* The lessor may obtain an appraisal of the leased property to determine its realized value. Such an appraisal, however, is not the one addressed in § 183(c) of the act, and the lessor still must disclose the lessee's independent right to an appraisal under § 213.4(g)(14).

3. *Time restriction on appraisal.* Neither the act nor the regulation specifies any time period in which the lessee must exercise the appraisal right. The lessor may require a lessee to obtain the appraisal within a reasonable time after termination of the lease. The regulation does not define what is a "reasonable time."

Paragraph 4(g)(15).

1. *Coverage.* The disclosure under Paragraph 4(g)(15) limiting the lessee's liability for the value of the leased property does not apply at early termination.

2. *Total lease obligation.* The requirement that the total lease obligation be itemized is satisfied by disclosing the 3 components in the definition of total lease obligation in § 213.2(a)(17) with their corresponding amounts. The lessor may cross-reference the individual components disclosed elsewhere in the lease disclosure statement, as done in Appendix C–1.

3. *Taxes.* Taxes included in the value at consummation are included in the total lease obligation. Taxes not included in the value at consummation may, but need not, be included in the total lease obligation at the lessor's option. See the commentary to § 213.2(a)(18).

4. *Leases with a minimum term.* If a lease has an alternative minimum term, the § 213.2(g)(15) disclosures governing the liability limitation are not applicable for the minimum term. See the commentary to § 213.4(a).

5. *Average payment allocable to a monthly period.* The phrase "average payment allocable to a monthly period" is based on the periodic payment used to compute the total lease obligation. See the commentary to § 213.2(a)(17).

6. *Charges not subject to rebuttable presumption.* The limitation on liability applies only to liability that is based on the estimated value of the property at the end of the lease term. The lessor also may recover additional charges from the lessee at the end of the lease term. Examples of such additional charges include:

- Disposition charges.
- Excess mileage charges.
- Late payment and default charges.
- Amounts by which the unamortized capitalized cost exceeds the estimated residual value that have accrued in simple interest accounting leases because the lessee has made late payments.

4(h) Renegotiations or extensions.

1. *General coverage.* Section 213.4(h) applies only to existing leases that were covered by the requirements of the regulation or previous Regulation Z. It therefore does not apply to the renegotiation or extension of leases with an initial term of 4 months or less, because such leases are not covered by the definition of consumer lease in § 213.2(a)(6).

2. *Renegotiation defined.* A renegotiation occurs when an existing consumer lease is satisfied and replaced by a new lease undertaken by the same lessee. A renegotiation is a new lease requiring new disclosures. Whether and when a lease is satisfied and replaced by a new lease is determined by state or other applicable law.

3. *Renegotiation exceptions.* The following events are not renegotiations even if they are accomplished by satisfying and replacing an existing lease:

- A substitution of leased property in a multiple-item lease, provided the average payment is not changed by more than 25 percent.
- A reduction in the lease charge.
- A substitution of leased property with property that has a substantially equivalent or greater economic value, provided no other lease terms are changed.

4. *Extension defined.* An extension is any continuation of an existing consumer lease beyond the originally scheduled termination date, but only if the continuation is not the result of a renegotiation. The continuation must be agreed to by both the lessor and the lessee. An extension that exceeds 6 months is a new lease requiring new disclosures.

5. *Time of extension disclosures.* If a consumer lease is extended for a specified term greater than 6 months, new disclosures are required at the time the extension is agreed to. If the lease is extended on a month-to-month basis and exceeds 6 months, new disclosures are required at the commencement of the seventh month. If a consumer lease is extended for several terms, one of which will exceed 6 months beyond the originally scheduled termination date of the lease, new disclosures are required at the commencement of the term that will exceed 6 months beyond the originally scheduled termination date.

6. *Inapplicable disclosures.* Disclosures that are inapplicable to the terms of a renegotiation or extension need not be given. For example:

- If the term for which extension disclosures are given is 1 month and the lessee will pay no official fees and taxes during that month, no disclosure of those amounts is necessary.
- If a renegotiation involves no initial charges, no disclosure of initial charges is necessary.

7. *Court proceedings.* No disclosures are required if a renegotiation or extension results from an agreement involving a court proceeding.

8. *Deferrals.* No disclosures are required if one or more payments are deferred whether or not a fee is charged.

9. *Assumptions.* No disclosures are required when a consumer lease is assumed by another person, whether or not an assumption fee is charged.

References

Statute: Sections 102(b), 121, 122, 124, 182, and 183.

Other sections: §§ 213.2, 213.5, and 213.7 and Appendix C.

Previous regulation: §§ 226.6 and 226.15.

1981 changes: Although reorganized, the disclosure requirements are substantially the same as the previous requirements. The sole amendment implements § 121 of the Truth in Lending Act pertaining to multiple lessors and lessees.

Section 213.5—Advertising

5(a) General rule.

1. *Persons covered.* All "persons" must comply with the advertising provisions in this section, not just those that meet the definition of lessor in § 213.2(a)(8). Thus, automobile dealers, merchants, and others who are not themselves lessors must comply with the advertising provisions of the regulation if they advertise consumer lease transactions. The owner and personnel of the medium in which an advertisement appears or through which it is disseminated, however, are not subject to civil liability for violations under section 184(b) of the act.

2. *"Usually and customarily."* Section 213.5(a) is not intended to prohibit the advertising of a single item or the promotion of new leasing programs, but to bar the advertising of terms that are not and will not be available. Thus, an advertisment may state terms that will be offered for only a limited period or terms that will become available at a future date.

5(b) Catalogs and multipage advertisements.

1. *General rule.* The multiple-page advertisements to which §213.5(b) refers are advertisements consisting of a numbered series of pages—for example, a supplement to a newspaper. A mailing comprised of several separate flyers or pieces of promotional material in a single envelope is not a single multiple-page advertisement.

2. *Cross-references.* A multiple-page advertisement is a single advertisement (requiring only one set of lease disclosures) if it contains a table, chart, or schedule clearly stating sufficient information for the reader to determine the disclosures required under § 213.5(c) (1) through (5). If one of the triggering terms listed in § 213.5(c) appears on another page of the catalog or multiple-page advertisement, that page must clearly refer to the specific page where the table, chart, or schedule begins.

5(c) Terms that require additional information.

1. *Clear and conspicuous standard.* Section 213.5(c) prescribes no specific rules for the format of the necessary disclosures. The terms need not be printed in a certain type size and need not appear in any particular place in the advertisement.

2. *Triggering terms.* Whenever certain triggering terms appear in lease advertisements, the additional terms enumerated in § 213.5(c) (1) through (5) must also appear. An example of one or more typical leases with a statement of all the terms applicable to each may be used. The additional terms must be disclosed even if the triggering term is not stated explicitly, but is readily determinable from the advertisement. For example, if an advertisement states a 5-year lease term with monthly payments, the number of required payments—a triggering term—is readily apparent.

5(d) Multiple-item leases; merchandise tags.

1. *Merchandise tags.* Section 213.5(d) provides a method for using merchandise tags without including all the required disclosures on the tags. As an alternative to this dosclosure method, a merchandise tag may state all the necessary terms on one or both sides of the tag. If the terms are on both sides of the tag, both sides must be accessible to the consumer.

References

Statute: Sections 105(a) and 184.
Other sections: § 213.2(a) (2) and (6).
Previous regulation: § 226.10 (a), (b), (g), and (h).
1981 changes: None.

Section 213.6—Preservation and Inspection of Evidence of Compliance

1. *Preservation methods.* Lessors must retain evidence that they performed required actions as well as made required disclosures. Adequate evidence of compliance does not require actual paper copies of disclosure statements or other business records. The evidence may be retained on microfilm, microfiche, or by any other method designed to reproduce records accurately (including computer programs). The lessor need retain only enough information to reconstruct the required disclosures or other records.

References

Statute: Section 105(a)
Previous regulation: § 226.6(i)
1981 changes: A uniform 2-year record-retention rule replaces the previous requirement that records be retained through at least one compliance examination.

Section 213.7—Inconsistent State Requirements

1. *Procedures.* Only states (through their authorized officials) may request and receive determinations on inconsistency. The procedures for requesting a Board determination on inconsistency are contained in Appendix B.

2. *Inconsistent state disclosures.* A lessor that chooses to make inconsistent state disclosures must do so in the manner prescribed by § 213.4(b).

References

Statute: Sections 111(a)(1) and 186(a).
Other sections: §§ 213.2(a)(16) and 213.4(b) and Appendix B.
Previous regulation: § 226.6(b)(3).
1981 changes: None.

Section 213.8—Exemption of Certain State-Regulated Transactions

1. *Classes eligible.* The state determines the classes of transactions for its exemption and makes its application for those classes. Classes might be, for example, all automobile leases or all leases in which the lessor is a bank.

2. *Substantial similarity.* The "substantially similar" standard requires that state statutory or regulatory provisions and state interpretations of those provisions must be generally the same as the federal act and the regulation. A state will be eligible for an exemption even if its law covers classes of transactions not covered by the federal law. For example, if a state's law covers leases for agrucultural purposes, this will not prevent the Board from granting an exemption for consumer leases, even though leases for agricultural purposes are not covered by the federal law.

3. *Adequate enforcement.* The standard requiring adequate provision for enforcement generally means that appropriate state officials are authorized to enforce the state law through procedures and sanctions comparable to those available to federal enforcement agencies.

References

Statute: Sections 111(a)(2) and 186(b).
Other sections: §§ 213.2(a)(16) and 213.4(b) and Appendix A.
Previous regulation: § 226.6(b)(3).
1981 changes: None.

Appendix A—Procedures and Criteria for State Exemptions

References

Statute: Section 186(b).
Other sections: § 213.8.
Previous regulation: § 226.80 (Supplement VI, Section I).
1981 changes: None.

Appendix B—Procedures and Criteria for Board Determination Regarding Preemption

References:

Statute: Section 186(a).
Other sections: § 213.7.
Previous regulation: § 226.80 (Supplement VI, Section II).
1981 changes: None.

Appendix C—Model Forms

1. *Permissible changes.* Although use of the model forms is not required, lessors using them properly will be deemed to be in compliance with the regulation. Lessors may make certain changes in the format or content of the forms and may delete any disclosures that are inapplicable to a transaction without losing the act's protection from liability. The changes to the model forms may not be so extensive as to affect the substance, clarity, or meaningful sequence of the forms. Examples of acceptable changes include:

- Using the first person, instead of the second person, in referring to the lessee.
- Using "lessee," "lessor," or names instead of pronouns.
- Rearranging the sequence of the disclosures.
- Incorporating certain state "plain English" requirements.
- Deleting inapplicable disclosures by whiting out, blocking out, filling in "N/A" (not applicable) or "O," crossing out, leaving blanks, checking a box for applicable items, or circling applicable

items. (This should permit use of multi-purpose standard forms.)

• Adding language or symbols to indicate estimates.

2. *Model open-end or finance vehicle lease disclosures.* Model C–1 is designed for an open-end or finance lease of a vehicle. An open-end or finance lease is one in which the lessee's liability at the end of the lease term is based on the difference between the estimated value of the leased property and its realized value. Section 213.4(g)(15)(i) requires disclosure of an itemized total lease obligation for such leases. To facilitate this disclosure, Model C–1 divides the initial charges (item 3) into two categories: Those that are included in the total lease obligation and those that are not. The amount of the monthly payment (item 4) is similarly divided. This format permits the components of the total lease obligation (item 11) to be disclosed simply by cross-reference to the previous items. See the commentary to § 213.2(a)(17). The inclusion of taxes in the basic monthly payment disclosure (mentioned in the instructions to item 4(a)) is not mandatory in all cases. See the commentary to § 213.4(g)(15).

3. *Model closed-end or net vehicle lease disclosures.* Model C–2 is designed for a closed-end or net lease of a vehicle. A closed-end or net lease is one in which the lessee's liability at the end of the lease term is *not* based on the difference between the estimated value of the leased property and its realized value. Item 13(c) is included for those closed-end vehicle leases in which the lessee's liability at early termination is based on the vehicle's estimated value. See § 213.4(g)(14).

4. *Model furniture lease disclosures.* Model C–3 is a closed-end lease disclosure statement designed for a typical furniture lease. It does not include a disclosure of the appraisal right at early termination that is required under § 213.4(g)(14) because few closed-end furniture leases base the lessee's liability at early termination on the estimated value of the leased property. The disclosure may be added, if it is applicable, without loss of the form's protection from civil liability.

References

Statute: §§ 105, 130, and 185.

Previous regulation: §§ 226.1501, 226.1502, and 226.1503.

1981 changes: References in the instructions to the previous regulations have been deleted.

Appendix D—Federal Enforcement Agencies

References

Statute: § 108.

Previous regulation: Appendix E.

1981 changes: None.

Board of Governors of the Federal Reserve System, May 6, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82–12977 Filed 5–12–82; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82–ANE–10; Amdt. 39–4382]

Garrett Turbine Engine Co. Engine Models TSE331–3 and TPE331–1, –2, –3, –5, and –6 Series Engines; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comment.

SUMMARY: This amendment supersedes a currently effective airworthiness directive (AD) which revised turbine wheel life limits. The previous AD was issued to reduce the possibility of rapid destruction of the engine turbine resulting from separation of a portion of the turbine wheel rim. This superseding AD is required because third stage turbine wheel assembly failures have occurred subsequent to the issuance of the previous AD at less than the cyclic life limits established by that AD.

DATES: Effective May 13, 1982. Comments must be received on or before June 13, 1982. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Garrett Turbine Engine Company, P.O. Box 5217, Phoenix, Arizona 85010; telephone (602) 267–3011.

A copy of the service information is contained in the FAA Rules Docket, Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attn: Docket No. 82–ANE–10, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Bill Moring, Aerospace Engineer, ANM–174W, Western Aircraft Certification Field Office, Northwest Mountain Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009; telephone (213) 536–6371.

SUPPLEMENTARY INFORMATION: AD No. 82–03–01, Amendment 39–4304, made effective on February 11, 1982, reduced the cyclic life limit of TSE 331–3 and TPE331–1, –2, –3, –5, and –6 series engine third stage turbine wheels. This action was required because failures occurred at less than the published cyclic life limits. Since issuance of AD 82–03–01 additional third turbine wheel failures have occurred by LCF mechanism at cyclic lives less than those published in the AD. Further engineering investigation of these failures indicates that third stage wheel lives are significantly influenced by two additional factors: manufacturing of wheels with rivet hole locations beyond blueprint limits; and design tolerances of third turbine wheel rivet hole locations. It has also been determined that there should be no cyclic life distinction between Part Number (P/N) 868630–1, –2, –3, –4, and –7 wheels installed in TPE/TSE331–3 series engines and those installed in TPE331–1, –2, –5, and –6 series engines since it now has been determined that a difference in operating characteristics by engine model is not a factor.

Based on the foregoing, existing AD 82–03–01, Amendment 39–4304, is revoked and superseded by this AD to provide for the following:

a. Introduce a new retirement life schedule for third turbine wheels, P/N 868630–1, –2, –3, –4, and –7 which are now suspected to contain manufacturing errors and are identified by serial number.

b. Combine compliance requirements of paragraphs (a) and (b) applicable to the remaining population of P/N 868630–1, –2, –3, –4, and –7 third turbine wheels. The retirement schedule of paragraph (a) is retained since all turbine wheels of this P/N are equally affected regardless of engine installation.

c. Introduce an inspection procedure for P/N 868630–1, –2, –3, –4, and –7 third turbine wheels to permit those wheels to be operated to 3600 cycles.

d. Introduce requirement for curvic coupling gasket replacement at the next shop opportunity when the third turbine wheel is next removed (paragraph (f)).

The remaining compliance requirements of AD 82–03–01, Amendment 39–4304 are retained in this amendment.

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

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety.

Request for Comments on the Rule

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedures, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together, with other available information to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

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

Garrett Turbine Engine Company (formerly AiResearch Manufacturing Company of Arizona): Applies to Garrett Engine Models TSE331–3 and TPE331–1, –2, –3, –5, and –6 series engines.

Compliance required as indicated, unless already accomplished.

To reduce the possibility of rapid destruction of the engine turbine, accomplish the following:

(a) P/N 868630–1, –2, –3, –4, and –7 third stage turbine wheels identified by serial number (S/N) below must be removed from service according to the following schedule:

Wheel total cycles [1]	Remove [1]
Less than 1,300	Before accumulation of 1,500 cycles.
1,300 or more and less than 2,500.	Before accumulation of 2,600 cycles of within the next 200 cycles, whichever occurs first.
2,550 or more	Within the next 50 cycles.

[1] No wheel listed below may exceed 1,500 cycles after December 1, 1982, except as provided in paragraph (c) of this AD.

S/N	S/N	S/N
0–01345–419	0–01345–1314	0–01345–2374
420	1315	2375
421	1316	2376
422	1317	2377
423	1318	2378
424	1319	2379
425	1320	2380
426	1321	2381
428	1322	2382
430	1323	2383
431	1324	2384
432	1325	2385
433	1326	2386
435	1328	2387
436	1329	2388
437	1330	2529
438	1331	3106
439	1332	3107
440	1335	3109
441	1336	3110
442	1338	3111
443	2336	3112
444	2337	3113
446	2338	3114
447	2339	3118
448	2340	3119
449	2341	3121
450	2342	3122
451	2343	3123
452	2344	3124
453	2345	3125
454	2346	3126
455	2347	3127
456	2348	3128
458	2349	3129
459	2350	3130
461	2351	3131
463	2352	3132
1296	2353	3133
1298	2354	3134
1299	2355	3135
1301	2356	3136
1302	2357	3140
1304	2358	3141
1305	2359	3145
1306	2364	3146
1307	2365	3147
1308	2366	3149
1309	2367	3150
1311	2369	3152
1312	2371	3153
1313	2372	3737
9–10345–15426	18259	18311
15427	18260	18316
15428	18262	18317
15429	18263	18318
15432	18264	18320
15433	18265	18321
18246	18266	18323
18247	18286	18324
18248	18287	18325
18250	18288	18326
18251	18289	18328
18252	18302	19329
18253	18304	18330
18256	18305	18414
18258	18310	18415

(b) P/N 868630–1, –2, –3, –4, and –7 third stage turbine wheels introduced into service after March 24, 1978, and not listed by serial number in paragraph (a) of this AD must be removed from service according to the following schedule:

Wheel total cycles [1]	Remove [1]
Less than 1,500	Before accumulation of 2,600 cycles.
1,500 or more and less than 2,500.	Before accumulation of 2,900 cycles or within the next 1,100 cycles after February 11, 1982, whichever occurs first.
2,500 or more and less than 4,000.	Before accumulation of 4,300 cycles or within next 400 cycles after February 11, 1982, whichever occurs first.
4,000 or more and less than 5,200.	Before accumulation of 5,250 cycles or within the next 300 cycles after February 11, 1982, whichever occurs first.
5,200 or more	Within the next 50 cycles after February 11, 1982.

[1] No wheel may exceed 2,600 cycles after December 1, 1982, except as provided in paragaph (c) of this AD.

(c) Notwithstanding paragraphs (a) and (b), P/N 868630–1, –2, –3, –4, or –7 third stage turbine wheels which comply with paragraph 2 of Garrett Service Bulletin No. TPE/TSE331–72–0351, dated April 14, 1982, or later FAA approved revisions, may be operated to the cyclic life limits provided in paragraph (d) of this AD.

Note.—Turbine wheels which comply with paragraph 2 of Garrett Service Bulletin No. TPE/TSE331–72–0351 or later FAA approved revisions have the service bulletin annotated on the life limited parts log card which either is located with the third stage wheel assembly or with the engine log book.

(d) This AD establishes the service life limits in cycles of new (zero-time) turbine wheels introduced into service after March 24, 1978. As of the effective date of this AD turbine wheels specified below may not be operated in service in excess of these service life limits except as provided in paragraph (a) or (b) of this AD, as applicable:

Wheel stage	Part No.	Cycle life
First	867569–1, –7	4,900
Second	868272–1, –2, –3, –4	4,900
Third	895539–1, –2, –3, –4	2,400
Third	868630–1, –2, –3, –4, –7	3,600

Note.—For purposes of this AD, an operating cycle is defined as any operating sequence involving an engine start, aircraft takeoff and landing, followed by engine shutdown and one cycle shall be counted for each such operational sequence.

(e) Turbine wheels P/N's 867569–1, –7; 868272–1, –2, –3, and –4; 895539–1, –2, –3, and –4; and 868630–1, –2, –3, –4, and –7, which have operated in service prior to March 24, 1978, may be continued in service to the life limit of 4250 operating hours (reference Garrett (AiResearch) Service Bulletin TPE/TSE331–72–0019, Revision 4, dated December 6, 1976) provided they are inspected for cracks by procedures contained in the existing FAA approved maintenance manual for the applicable TPE/TSE331 engine before accumulating 1800 operating hours in service since new and at intervals not to exceed 1800 operating hours in service thereafter. All wheels found to have crack indications by the procedures specified above must be replaced. As an alternative, the above turbine wheels may be continued in service to the operating cycle life limit established by paragraph (d) of this AD, provided the number of operating cycles for that turbine wheel can be determined from the aircraft and/or engine log books based on the operating cycle definition in paragraph (d) of this AD.

Note.—If the total number of cycles cannot be determined from the log books, those operating hours for which cycles are unknown may be converted to cycles on the basis of 1.5 cycles per hour.

(f) Prior to accumulating an additional 1800 operating hours on all affected engines after February 11, 1982, or upon next removal of the third stage turbine wheel, after the effective date of this AD, whichever occurs earlier, either:

(1) Remove curvic coupling gasket, P/N 868892–2, located forward of third stage turbine wheel and replace it with a

serviceable P/N 868892-9 curvic coupling gasket as prescribed in paragraph 2 of Garrett Service Bulletin TPE331-72-0300, dated September 9, 1981, or later FAA approved revisions, or;

(2) Replace the P/N 868630-1, -2, -3, or -4 third stage turbine wheel with a P/N 868630-7 third stage turbine wheel.

Note.—The P/N's 868630-1, -2, -3, or -4 turbine wheel may be modified to the P/N 868630-7 third stage turbine wheel design by compliance with instructions provided in Garrett Service Bulletins TPE331-72-0327, dated December 14, 1981, or later FAA approved revisions.

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

(h) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Western Aircraft Certification Field Office, FAA Northwest Mountain Region.

This AD supersedes AD 82-03-01, Amendment 39-4304.

This amendment becomes effective May 13, 1982.

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

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11035; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

This rule is a final order of the Administrator. Under Section 1008(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the Courts of Appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Note.—Service Bulletins are filed with the original document.

Issued in Burlington, Mass., on April 30, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-12963 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASW-19]

Alteration of Control Zone: Alexandria, LA (England A.F.B.)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of the control zone at Alexandria, LA (England A.F.B.). This amendment will discontinue the provision of part-timing the control zone by use of Notice to Airmen (NOTAM). The amendment is necessary since the control zone has been a continuous control zone for the past several months. This amendment will eliminate the necessity for the Air Force to publish a NOTAM to advertise the hours of the control zone.

DATES: Effective Date—July 8, 1982. Comments on the rule must be received before May 15, 1982.

ADDRESSES: Send comments on the action in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region: Docket No. 82-ASW-19, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart F § 71.171, as republished in Advisory Circular AC 70-3 dated January 29, 1982, contains the description of control zones designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the description of the control zone at Alexandria, LA (England A.F.B.), will necessitate an amendment to this subpart.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) amends the description of the Alexandria, LA (England A.F.B.) control zone. Because this action is administrative in nature, I find that notice and public procedure and publication 30 days before the effective date are unnecessary; however, comments are invited on the rule. When the comment period ends, the FAA will use the comments and any other available information to review the regulation.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901, G.m.t., July 8, 1982, by deleting:

Alexandria, LA (England A.F.B.) [Amended]

This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen (NOTAM). The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11/61(c).)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. It is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Fort Worth, TX, on May 3, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-12854 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AAL-2]

Extension of Federal Airway From Nome, AK, to Gambell, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends Green Federal Airway No. 7 (G-7) from Nome, AK, (Fort Davis nondirectional radio beacon (NDB)) to Gambell, AK, NDB. Extension of the airway allows air traffic control services for aircraft operating between Nome, AK, and Gambell, AK. This action enhances air safety in that area.

EFFECTIVE DATE: July 8, 1982.

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

SUPPLEMENTARY INFORMATION:

History

On March 22, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend G-7 from Nome, AK, to Gambell, AK (47 FR 12191). The airway extension provides controlled airspace in that area thereby enhancing aviation safety. This action aids flight planning. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.103 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations extends G-7 from Nome, AK, (Fort Davis NDB) to Gambell, AK, NDB. Extension of the airway provides air traffic control service for aircraft operating in that area.

List of Subjects in 14 CFR Part 71

Aviation safety, Federal Airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.103 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., July 8, 1982, as follows:

G-7 [Revised]

By revising the description of G-7 to read as follows:

"G-7 From Gambell, AK, NDB; Fort Davis, AK, NDB; Norton Bay, AK, NDB; 46 miles, 57 miles 55 MSL, Bishop, AK, NDB; INT Bishop 089° and Chena, AK, NDB 269° bearings; to Chena NDB."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in Washington, DC, on May 4, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-12855 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 81-ACE-19]

Alteration of Transition Area—Kaiser, Missouri

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Kaiser, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Camdenton, Missouri, Municipal Airport, utilizing the Sunshine, Missouri, VOR as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Camdenton, Missouri, Municipal Airport is being established utilizing the Sunshine, Missouri, VOR as a navigational aid. The establishment of an instrument approach procedure, based on this approach aid, entails the alteration of the transition area at Kaiser, Missouri, at or above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 10593 and 10594 of the **Federal Register** dated March 11, 1982, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Kaiser, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received as result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.171 and/or § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., July 8, 1982, by altering the following transition area:

Kaiser, Missouri

That airspace extending from 700 feet above the surface within a 5-mile radius of the Camdenton Memorial Airport (Latitude 37°58'29"N, Longitude 92°41'30"W) within a 7-mile radius of Linn Creek-Grand Glaize Memorial Airport (Latitude 38°06'38"N, Longitude 92°40'50"W), within a 9-mile radius of the Lee C. Fine Memorial Airport (Latitude 38°05'44"N, Longitude 92°32'56"W), and within 4.5 miles each side of the 133° radial of the Sunshine VOR extending from the 7-mile radius area to 9 miles southeast of the VOR.

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

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

Issued in Kansas City, Missouri, on May 3, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-12962 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWA-15]

Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes two alternate VOR Federal Airways and renumbers certain other alternate airway segments in the central part of the U.S. This action reduces chart clutter and supports our agreement with the International Civil Aviation Organization (ICAO) to phase out alternate airway descriptions from the National Airspace System.

EFFECTIVE DATE: July 8, 1982.

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

SUPPLEMENTARY INFORMATION:

History

On February 25, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke segments of alternate VOR Federal Airways V-14S and V-15E and renumber segments of V-14S, V-14N, and V-17W in the central part of the U.S. (47 FR 8206). The revocation of these airway segments, which are no longer needed for air navigation, will reduce chart clutter. Other alternate airway segments are renumbered to eliminate the use of alternate airway descriptions in accordance with the ICAO agreement. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendement is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Avaition Regulations was republished in advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) revokes segments of V-14S and V-15E and renumbers segments of V-14S, V-14N, and V-17W. There is no change in the amount of designated controlled airspace as a result of this action. This action is in accordance with the ICAO agreement to phase out alternate airway descriptions from the National Airspace System.

List of Subjects in 14 CFR Part 71

Aviation safety, Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as amended (46 FR 24170, and 46 FR 48128), is further amended, effective 0901 G.m.t., July 8, 1982, as follows:

1. V-14 [Amended]

By deleting the words ", including a N alternate and also a S alternate via INT Tulsa 087° and Neosho 223° radials" and "., including a S alternate via INT Neosho 074° and Springfield 210° radials" and between the words Vichy, MO, and Foristell, ", including a N alternate"

2. V-506 [New]

By adding "V-506 From Tulsa, OK, INT Tulas 044° and Neosho, MO, 255° radials; Neosho; INT Neosho 074°, and Springfield, MO, 210° radial; Springfield; INT Springfield 043° and Vichy, MO, 242° radials; Vichy."

3. V-15 [Amended]

By deleting the words between Sioux Falls and Huron, SD ", including an E alternate"

4. V-17 [Amended]

By deleting the words after Garden City, KS"., including a W alternate from Gage to Garden City via Liberal, KS"

5. V-507 [New]

By adding "V-507 From Gage, OK, via Liberal, KS, to Garden City, KS."

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

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

Issued in Washington, D.C., on May 4, 1982.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-12901 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 81-ACE-16]

Designation of Transition Area—Clay Center, Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Clay Center, Kansas, Municipal Airport is being established utilizing the Clay Center NDB as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Clay Center, Kansas, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operations and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft

operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

Discussion of Comments

On pages 9860 and 9861 of the **Federal Register** dated March 8, 1982, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Clay Center, Kansas. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. July 8, 1982, by designating the following transition area:

Clay Center, Kansas

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Clay Center Municipal Airport (Latitude 39°23'11"N, Longitude 97°09'25"W), and within 3 miles each side of the 167° bearing from the Clay Center NDB (Latitude 39°22'50"N, Longitude 97°09'40"W), extending from the 5-mile radius area to 8 miles southeast of the NDB.

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

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

Issued in Kansas City, Missouri, on May 3, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-12902 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ACE-01]

Designation of Transition Area—Vinton, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Vinton, Iowa, Veterans Memorial Airport is being established utilizing the Vinton NDB as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Vinton, Iowa, at or above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

Discussion of Comments

On page 9224 of the **Federal Register** dated March 4, 1982, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Vinton, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. July 8, 1982, by designating the following transition area:

Vinton, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Vinton Veterans Memorial Airpark (Latitude 42°13'00"N, Longitude 92°01'00"W) within 2½ miles each side of the Vinton NDB 319° bearing extending from the 5-mile radius area to 7 miles northwest of the airport.

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

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

Issued in Kansas City, Missouri, on May 3, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-12903 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ACE-15]

Designation of Transition Area—Hugoton, Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a 700-foot transition area at Hugoton, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Hugoton, Kansas, Municipal Airport, utilizing the Hugoton Non-Directional Radio Beacon (NDB) as a navigational aid. The intended effect

of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Hugoton, Kansas, Municipal Airport is being established utilizing the Hugoton NDB as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Hugoton, Kansas, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

Discussion of Comments

On pages 10594 and 10595 of the **Federal Register** dated March 11, 1982, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Hugoton, Kansas. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. July 8, 1982, by designating the following transition area:

Hugoton, Kansas

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Hugoton Municipal Airport (Latitude 37°10'15"N, Longitude 101°22'29"W), and within 3 miles each side of the 200° bearing from the Hugoton NDB (Latitude 37°09'40"N, Longitude 101°22'25"W), extending from the 5.5-mile radius area to 8 miles south of the NDB.

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

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

Issued in Kansas City, Missouri, on May 3, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-12904 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWP-1]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes VOR Federal Airway V-190N alternate between Phoenix, AZ, and St. Johns, AZ, and establishes a new bypass airway north of V-190 to avoid the newly relocated Williams 4 Military Operations Area (MOA). This amendment meets operational needs of the Phoenix terminal area and supports our agreement with the International Civil Aviation Organization (ICAO) to phase out alternate airway descriptions from the National Airspace System.

EFFECTIVE DATE: July 8, 1982.

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

SUPPLEMENTARY INFORMATION:

History

On February 11, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter V-190 by revoking the N alternate between Phoenix, AZ, and St. Johns, AZ, and redefine V-190 to avoid the newly relocated Williams 4 MOA (47 FR 6284). However, to meet operational needs of the Phoenix terminal area, the FAA has decided to retain V-190 between Phoenix, AZ, and St. Johns, AZ, and assign a new airway designation for the redefined route north of the relocated Williams 4 MOA. No additional airspace will be affected by this revision. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, and except as specifically discussed above, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes Federal Airway V-190N alternate between Phoenix, AZ, and St. Johns, AZ, and establishes new VOR Federal Airway V-528 from Phoenix, AZ, via INT Phoenix 043° and the St. Johns, AZ, 269° radials to St. Johns. This action provides a bypass airway between Phoenix, AZ, and St. Johns, AZ, to avoid the newly relocated Williams 4 MOA to meet operational needs of the Phoenix terminal area.

List of Subjects in 14 CFR Part 71

Aviation safety, Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, July 8, 1982, as follows:

V-190 [Amended]

By deleting the words ", including a north alternate via INT Phoenix 051° and St. Johns 263° radials".

V-528 [New]

By adding "V-528 From Phoenix, AZ; INT Phoenix 043° and St. Johns, AZ, 269° radials; St. Johns."

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

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

Issued in Washington, D.C., on May 5, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-13054 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWA-13]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Renumbering of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment renumbers certain alternate VOR Federal Airways in the central part of the U.S. This action eliminates the assignment of alternate airway segments for the affected airways and is in accordance with International Civil Aviation Organization (ICAO) agreement to phase out alternate airway descriptions from the National Airspace System.

EFFECTIVE DATE: July 8, 1982.

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

SUPPLEMENTARY INFORMATION:

History

On February 1, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to renumber V-4S, V-4N, and V-6S in the central part of the U.S. (47 FR 4528). Minor errors were found in the notice describing the amendments to these airways and a Supplemental Notice was published on March 22, 1982, correcting those errors (47 FR 12192). The alternate airway segments are renumbered to eliminate the use of alternate airway descriptions in accordance with the ICAO agreement. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations renumbers V-4S, V-4N, and V-6S. There is no change in the amount of designated controlled airspace as a result of this action. The renumbering of the alternate airways eliminates alternate airway assignments for the affected airways and supports our agreement with ICAO to phase out alternate airway descriptions from the National Airspace System.

List of Subjects in 14 CFR Part 71

Aviation safety, Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as amended (47 FR 12155) is further amended, effective 0901 GMT, July 8, 1982, as follows:

1. *V-4 [Amended]*

By deleting the words ", including a S alternate via Hays, KS" and ", including a N alternate from the INT of Salina 080° and Manhattan, KS, 213° radials to Topeka via Manhattan and the INT of Manhattan 078° and Topeka, 293° radials" and ", including a S alternate via INT Topeka 099° and Kansas City 231° radials."

2. *V-508 [New]*

By adding "V-508 From Hill City, KS; Hays, KS; Salina, KS; INT Salina 080° and Manhattan, KS, 213° radials; Manhattan; INT Manhattan 078° and Topeka, KS, 293° radials; Topeka; INT Topeka 099° and Kansas City, MO, 231° radials; Kansas City."

3. *V-6 [Amended]*

By deleting the words "; Des Moines, IA; Iowa City, IA, including a S alternate via INT Des Moines 112° and Iowa City 252° radials;" and substituting for them the words "; Des Moines, IA; Iowa City, IA;"

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

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

Issued in Washington, D.C., on May 5, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-13055 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 82-AAL-1]

Establishment of Alaskan High Altitude Routes and Reporting Point

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule.

SUMMARY: This amendment alters the description of several Alaskan High Altitude Routes and establishes an Alaskan high altitude reporting point. These actions improve air traffic control efficiency by providing an orderly transition to and from newly established International Civil Aviation Organization (ICAO) North Pacific (NOPAC) composite routes.

EFFECTIVE DATE: July 8, 1982.

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

SUPPLEMENTARY INFORMATION:

History

On March 4, 1982, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to amend the descriptions of Jet Routes Nos. 120 and 127, establish a new high altitude reporting point, and establish three area high routes (47 FR 9222). The area high altitude routes (RNAV) as described in the Notice of

Proposed Rulemaking have been withdrawn because the NOPAC routes are being revised; these routes were designed to interface and complement each other and become effective simultaneously. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the notice were received. Except for editorial changes and the deletion of the RNAV routes discussed above, these amendments are the same as those proposed in the notice. Sections 71.207 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Advisory Circular AC 70–3 dated January 29, 1982.

The Rule

These amendments to §§ 71.207 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) amend the descriptions of Jet Routes Nos. 120 and 127 in Alaska and establish a new high altitude compulsory reporting point. These changes enhance traffic flow in the King Salmon, AK, area.

List of Subjects

14 CFR Part 71

Aviation safety, Reporting points.

14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §§ 71.213 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) are amended, effective 0901 G.m.t., July 8, 1982, as follows:

§ 71.213 [Amended]

By adding a new reporting point, as follows:

AUGIN: Lat. 57°45'00"N., long. 160°00'00"W. (King Salmon 241° radial 118.6 DME)

§ 75.100

1. Jet Route No. 120 [Amended]—By deleting the words "From the INT of the Anchorage Oceanic CTA/FIR boundary and the Bethel, AK, 234° radial via Bethel;" and substituting for them the words "From Saint Paul Island, AK, NDB via Bethel, AK;"

2. Jet Route No. 127 [Amended]— By deleting the words "From Cape Newenham, AK, NDB" and substituting for them the words "From AUGIN, AK, DME INT (King Salmon, AK, 241° radial 118.6 DME)"

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in Washington, D.C., on May 4, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-12900 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 82-AAL-3]

Special Use Airspace; Alteration of Restricted Area R-2205, Yukon, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the times of designation for Restricted Area R–2205, Yukon, AK. A review of utilization reports for R–2205 indicates that the area is required by the using agency, 172D Infantry Brigade, Fort Richardson, AK, continuous year around rather than continuous from April 1, to November 30, and at other times by NOTAM. This action is necessary for the safe and efficient use of the airspace by prohibiting unauthorized aircraft from use of the airspace during its time of use.

EFFECTIVE DATE: July 8, 1982.

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

SUPPLEMENTARY INFORMATION:

History

On March 18, 1982, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to amend the times of designation of Restricted Area R–2205, Yukon, AK, from continuous April 1 through November 30, other times as activitated by NOTAM issued at least 24 hours in advance, to continuous on a year-round basis (47 FR 11700). Usage factors and a review of utilization reports indicate that the area is required by the military all year many times on a 24-hour basis, thus necessitating frequent NOTAM's providing advance notification which reduces flexibility of the using agency. Civilian air traffic in the area is light and no adverse effect on civilian traffic is anticipated. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.22 of Part 73 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations extends the times of designation of R–2205, Yukon, AK, from continuous April 1 through November 30, and at other times by NOTAM, to continuous year around. This action is necessary to meet usage requirements of the using agency and provide for the safe and efficient use of the airspace.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.22 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, effective 0901 GMT, July 8, 1982, as follows:

R–2205 Yukon, AK [Amended]

By amending the times of designation as follows:

Under times of designation, by deleting the words "Continuous from April 1 through November 30; other times as activated by NOTAM issued by the using agency at least 24 hours in advance." and substituting for them the word "Continuous."

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

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034;

February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 5, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-13053 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1201

Statement of Organization and General Information

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is revising its Statement of Organization and General Information to reflect its reorganization of December 1981. This revision also reflects the merger of Ames Research Center and Dryden Flight Research Center, and Goddard Space Flight Center and Wallops Flight Center. This merger reduces the number of field installations from 10 to 8. As a result of the reorganization the Directors of the NASA Field Installations will report to the appropriate Institutional Associate Administrator. Since this action is administrative and editorial in nature, notice and public procedures are not required.

DATE: Effective May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring, 202-755-3140.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 1201

Organization and functions (Government agencies).

14 CFR Part 1201 is revised to read as set forth below:

PART 1201—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

Subpart 1—Introduction

Sec.
1201.100 Creation and authority.
1201.101 Purpose.
1201.102 Functions.
1201.103 Administration.

Subpart 2—Organization

1201.200 General.

Subpart 3—Boards and Committees

1201.300 Boards and committees.

Subpart 4—General Information

1201.400 NASA Procurement Program.
1201.401 Special Document Depositories.
1201.402 NASA Industrial Applications Centers.

Authority: 5 U.S.C. 552, as amended.

Subpart 1—Introduction

§ 1201.100 Creation and authority.

The National Aeronautics and Space Administration was established by the National Aeronautics and Space Act of 1958 (72 Stat. 426, 42 U.S.C. 2451 et seq.), as amended (hereafter called the "Act").

§ 1201.101 Purpose.

It is the purpose of the National Aeronautics and Space Administration under the Act to carry out the declared policy of the United States that aeronautical and space activities sponsored by the United States shall be the responsibility of, shall be directed by, and shall be under the control of a civilian agency, except to the extent that aeronautical and space activities are determined by the President to be peculiar to or primarily associated with the development of weapons systems, military operations, or the defense of the United States, which activities shall be the responsibility of the Department of Defense.

§ 1201.102 Functions.

In order to carry out the purpose of the Act, NASA is authorized to conduct research into the problems of flight within and outside the Earth's atmosphere; to develop, construct, test, and operate aeronautical and space vehicles for research purposes; and to perform such other activities as may be required for the exploration of space. The term "aeronautical and space vehicles" means aircraft, missiles, satellites, and other space vehicles, together with related equipment, devices, components, and parts.

§ 1201.103 Administration.

(a) NASA is headed by an Administrator, who is appointed from civilian life by the President by and with the consent of the Senate. The Administrator is responsible, under the supervision and direction of the President, for exercising all powers and discharging all duties of NASA.

(b) The Deputy Administrator of NASA is also appointed by the President from civilian life by and with the consent of the Senate. The Deputy Administrator acts with or for the Administrator within the full scope of the Administrator's responsibilities. In the Administrator's absence, the Deputy Administrator serves as Acting Administrator.

Subpart 2—Organization

§ 1201.200 General.

(a) Responsibility for overall planning, coordination, and control of NASA programs is vested in NASA Headquarters, located in Washington, DC. NASA Headquarters is comprised of:

(1) 5 Program Offices which are responsible for planning and directing agencywide research and development programs, and management and administrative processes;

(2) 7 Staff Offices which provide agencywide leadership in certain administrative and specialized areas;

(3) the Office of the Associate Deputy Administrator; and

(4) the Office of the Chief Engineer.

All of these offices report directly to the Administrator. Directors of NASA Field Installations and other component installations are responsible for execution of NASA's programs, largely through contracts with research, development, and manufacturing enterprises. Certain types of research and development activities are conducted at NASA field installations and other component installations by Government-employed scientists, engineers, and technicians. NASA's basic organization consists of the Headquarters, 8 field installations, the Jet Propulsion Laboratory (a Government-owned, contractor-operated facility), and several component installations which report to heads of field installations. NASA's 8 field installations have different and broad capabilities. Although these field installations have a primary program responsibility to the program office to which they report, they also conduct work for the other program offices. (NASA Management Instruction 1132.2.)

(b) The NASA field installations are as follows:

(1) Ames Research Center, Moffett Field, CA 94035.

(2) Goddard Space Flight Center, Greenbelt, MD 20771.

(3) John F. Kennedy Space Center, Kennedy Space Center, FL 32899.

(4) Langley Research Center, Langley Station, Hampton, VA 23665.

(5) Lewis Research Center, Cleveland, OH 44135.

(6) Lyndon B. Johnson Space Center, Houston, TX 77058.

(7) George C. Marshall Space Flight Center, Marshall Space Flight Center, AL 35812.

(8) National Space Technology Laboratories, NSTL Station, MS 39520.

For more detailed description of the organization and functions of the Headquarters and field installations, see the "U.S. Government Manual."

Subpart 3—Boards and Committees

§ 1201.300 Boards and committees.

Various boards and committees have been established as part of the permanent organization structure of NASA. These include:

(a) *Board of Contract Appeals.* (1) The Board is established in accordance with the Contract Disputes Act of 1978 (41 U.S.C. 601–613). The function of the Board is to decide any appeal from a decision of a contracting officer relating to a contract made by NASA.

(2) The charter of the Board is set forth in Subpart 1 of Part 1209 of this Chapter. The Board's rules of procedure are set forth in 14 CFR Part 1241.

(3) The texts of decisions of the Board are published by Commerce Clearing House, Inc., in Board of Contract Appeals Decisions, and are hereby incorporated by reference. All decisions and orders are available for inspection and for purchase from the Recorder of the Board at NASA Headquarters, Washington, DC. Decisions and orders issued after July 4, 1967, are available for inspection and for purchase at NASA Information Centers. An Index/Digest of Decisions is issued periodically with supplements published as appropriate. These are available for inspection or purchase at the NASA Information Centers (see Subpart 4 of Part 1206 of this chapter) and from the Recorder of the NASA Board of Contract Appeals.

(b) *Contract Adjustment Board.* (1) The function of the Board is to consider and dispose of requests by NASA contractors for extraordinary contractual adjustments pursuant to Pub. L. 85–804 (50 U.S.C. 1431–35) and Executive Order 10789 dated November 14, 1958 (23 FR 8397).

(2) The charter of the Board is set forth at Subpart 3 of Part 1209 of this chapter. The Board's rules of procedure are set forth at 41 CFR Chapter 18, Part 17.

(3) Indexes of and texts of decisions of the Board are available for inspection and for purchase from the Chairperson of the Board, National Aeronautics and Space Administration, Washington, DC 20546, and from the NASA Information Centers.

(c) *Inventions and Contributions Board.* (1) The function of the Board is to consider and recommend to the Administrator the action to be taken with respect to:

(i) Petitions for waiver of rights to any invention or class of inventions made during the performance of NASA contracts, and

(ii) Applications for award for scientific and technical contributions determined to have significant value in the conduct of aeronautical and space activities, pursuant to the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457 (f) and (g), 2458), and the Government Employees Incentive Awards Act (5 U.S.C. 2121–23), respectively.

(2) The charter of the Board is set forth at Subpart 4 of Part 1209 of this chapter. The Board's rules of procedure are set forth at 14 CFR Parts 1240 and 1245.

(3) The texts of key decisions and an index of all decisions of the Board on requests for waiver are published in Petitions for Patent Waiver (NASA Handbook 5500.1) and are hereby incorporated by reference. These are available for inspection and for purchase at NASA Information Centers.

Subpart 4—General Information

§ 1201.400 NASA procurement program.

(a) The Office of Procurement, headed by the Assistant Administrator for Procurement, serves as a central point of control and contact for NASA procurements. Although the procurements may be made by the field installations, selected contracts and contracts of special types are required to be approved by the Assistant Administrator for Procurement prior to their execution. The Office of Procurement is also responsible for formulation of NASA procurement policies and provides overall assistance and guidance to NASA field installations to achieve uniformity in NASA procurement processes.

(b) The NASA procurement program is carried out principally at the NASA field installations listed in the "U.S. Government Organization Manual," and in Subpart 2 of this part. The Headquarters Contracts and Grants Division is responsible for contracts with foreign governments and foreign commercial organizations, grants and cooperative agreements, and the procurement of materials and services required by Headquarters offices except for minor office supplies and services procured locally.

(c) All procurements are made in accordance with the NASA Procurement Regulation (41 CFR Ch. 18). With minor exceptions, every proposed procurement in excess of $10,000 is publicized promptly in The Commerce Business Daily. Copies of this publication are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, on an annual subscription basis.

§ 1201.401 Special document depositories.

NASA distributes its technical documents and bibliographic tools in 10 special regional libraries located in the organizations listed below. Each library is prepared to furnish the public such services as reference assistance, interlibrary loans, photocopy service, and assistance in obtaining copies of NASA documents for retention.

(a) California: University of California Library, Berkeley.

(b) Colorado: University of Colorado Libraries, Boulder.

(c) District of Columbia: Library of Congress.

(d) Georgia: Georgia Institute of Technology, Atlanta.

(e) Illinois: The John Crerar Library, Chicago.

(f) Massachusetts: Massachusetts Institute of Technology, Cambridge.

(g) Missouri: Linda Hall Library, Kansas City.

(h) New York: Columbia University, New York.

(i) Pennsylvania: Carnegie Library of Pittsburgh.

(j) Washington: University of Washington Library, Seattle.

NASA provides the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22161, with copies of NASA or NASA-sponsored unclassified unlimited documents to provide availability to the public. These documents may be reproduced by NTIS and sold at prices established by NTIS.

§ 1201.402 NASA industrial applications centers.

As part of its Technology Utilization Program—a program designed to transfer new aerospace knowledge and innovative technology to nonaerospace sectors of the economy—NASA operates a network of Industrial Applications Centers. These centers serve U.S. industrial clients on a fee-paying basis by providing access to literally millions of scientific and technical documents published by NASA and by other research and development organizations. Using computers, the NASA Industrial Applications Centers conduct retrospective and current awareness searches of available literature in accordance with client interests and

assist in interpretation and adaption of retrieved information to specified needs. Such services may be obtained by contacting one of the following:

(a) Aerospace Research Applications Center (ARAC), Indianapolis Center for Advanced Research, 1201 East 38th Street, Indianapolis, IN 46205.

(b) Florida Technology Application Center, State University System, Tallahassee, FL 32304.

(c) Kentucky Technology Applications Program, University of Kentucky, Lexington, KY 40506.

(d) NASA Industrial Applications Center at the University of Pittsburgh, Pittsburgh, PA 15260.

(e) New England Research Applications Center (NERAC), Mansfield Professional Park, Storrs, CT 06268.

(f) North Carolina Science and Technology Research Center (NC/STRC), P.O. Box 12235, Research Triangle Park, NC 27709.

(g) Technology Applications Center (TAC), University of New Mexico, Albuquerque, NM 87131.

(h) Kerr Industrial Applications Center (KIAC), Southeastern Oklahoma State University, Durant, OK 74701.

(i) NASA Industrial Applications Center at the University of Southern California, University Park, Los Angeles, CA 90007.

Dated: April 27, 1982.

James M. Beggs,

Administrator.

[FR Doc. 82-13012 Filed 5-12-82; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-000 (Ohio—2); Order No. 226]

High-Cost Gas Produced from Tight Formations, Ohio; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This final order adopts the recommendation of the Ohio Department of Natural Resources that the Berea Sandstone and the "Second Berea" zone of the Bedford Shale be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective May 7, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511 or John Roy Johnson, (202) 357-8731.

Issued: May 7, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Berea Sandstone and the "Second Berea" zone of the Bedford Shale as a designated tight formation eligible for incentive pricing under § 271.703. This amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (OPPR), issued February 4, 1982 (47 FR 6028, February 10, 1982) based on a recommendation by the Ohio Department of Natural Resources, Division of Oil and Gas (Ohio) in accordance with § 271.703(c) that the Berea Sandstone and the "Second Berea" zone of the Bedford Shale be designated as a tight formation.

Two comments were received in response to the Notice of Proposed Rulemaking. One party, Mitchell Energy Corporation, filed its comments supporting Ohio's recommendation. The second party, the Citizen/Labor Energy Coalition (Energy Action) filed a comment in opposition to the recommendation. Although Energy Action states that it is opposed to the designation of the Berea Sandstone and the "Second Berea " as a tight formation, its comments do not address whether the formation meets the guidelines in § 271.703(c)(2) which are requisite for qualification as a tight formation. Energy Action states that it takes no position on whether the formation meets the Commission's geological definition of a tight formation. Instead, Energy Action opposes the designation of the recommended formation because, as it states:

> No evidence has been presented that the designation of the gas produced from this location as tight formation gas will not circumvent the maximum lawful price ceilings of the NGPA (1) by permitting a price to be charged which exceeds the market clearing price level for natural gas and (2) by diverting exploration and production activities away from gas which qualifies for the lower section 102 and 103 maximum lawful price ceilings established by Congress and toward the gas which the Commission is permitting to obtain artificially high prices above the market clearing level.

Energy Action further alleges that the instant designation does not comply with Order No. 99's standards, because the Commission has not considered whether perverse incentives would result by allowing producers of the gas to collect 200% of the section 103 price.

The Commission finds that the recommended formation meets the geological and production requirements found in § 271.703(c). The standards by which Energy Action would have the recommendation reviewed have no applicability in this subdocket. The Notice of Proposed Rulemaking in this case was issued to determine if Ohio's recommendation should be adopted under § 271.703 of the Commission's regulations. This limits the scope of the rulemaking to whether the recommendation meets the guidelines contained in that section of the Commission's regulations. Comments which address the advisability of the guidelines that are found in § 271.703 or the underlying premises upon which those guidelines are based are not within the scope of the inquiry which the Commission is undertaking in this docket under § 271.703(c)(2). Section 271.703(c)(2) requires that the Commission designate as a tight formation any formation which meets the guidelines found in § 271.703(c)(2).

Energy Action's comments are a collateral attack on the assumptions on which Order No. 99 is based, and the proper time to have raised these arguments would have been at the time that Order No. 99 was being considered by the Commission. Order No. 99 was issued on August 22, 1980. The Commission will not use this tight formation recommendation as a vehicle to reopen Order No. 99.

The proper way to seek review of Order No. 99 is to request that the Commission institute a rulemaking pursuant to § 1.7 of the Commission's Rules of Practice and Procedure. Since Energy Action also requested that the Commission undertake a general rulemaking to announce that no further formations be designated as tight formations under § 271.703 and that no gas produced from a formation already designated under § 271.703 be sold at a price above "the market clearing price level of high sulphur No. 6 fuel oil, less transportation and distribution costs," Energy Action's comments in this docket will be treated as such a request for rulemaking.

The Commission finds that the evidence submitted by Ohio supports the assertion that the Berea Sandstone

and the "Second Berea" zone of the Bedford Shale meet the guidelines contained in § 271.703(c)(2). The Commission adopts the Ohio recommendation.

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

List of Subjects in 18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

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

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective May 7, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding a new subparagraph (84) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(84) *Berea Sandstone and "Second Berea" zone of the Bedford Shale in Ohio.* RM79–76 (Ohio–2).

(i) *Delineation of formation.* The Berea Sandstone and the "Second Berea" zone of the Bedford Shale are found in the following townships:

Athens County: Alexander, Ames, Athens, Bern, Canaan, Carthage (Sections 25, 26, 29 through 36, Fractions 24, 32 through 35), Dover, Lodi, Rome.

Gallia County: Addison, Cheshire, Gallipolis, Springfield (Sections 1 through 12).

Meigs County: Bedford (All sections except 1 through 4), Rutland, Salem, Salisbury, Scipio.

Morgan County: Bloom, Bristol, Deerfield, Homer, Malta, Marion, Morgan, Penn, Union, York.

Muskingum County: Blue Rock, Meigs, Rich Hill, Salt Creek, Wayne (Sections 29 and 32).

Perry County: Bearfield (Sections 1, 2, 3, 10 through 15, 22 through 27).

The formation occurs within the Lower Mississippian System.

The Berea Sandstone (also called the "First Berea") lies above the Bedford Shale, which includes the "Second Berea" zone near its base.

(ii) *Depth.* The vertical limits of the designated interval are defined by the base of the Sunbury Shale (also called the "Coffee Shale") above and the top of the Upper Devonian Ohio Shale below. The average depth to the top of the designated interval is 1,600 feet. The Berea Sandstone ranges from 10 to 54 feet in thickness, and the "Second Berea" zone of the Bedford Shale has a maximum thickness of 36 feet.

[FR Doc. 82–13017 Filed 5–12–82; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–000 (Wyoming–9); Order No. 227]

High-Cost Gas Produced From Tight Formations, Wyoming; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

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

EFFECTIVE DATE: This rule is effective May 7, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511 or Victor Zabel, (202) 257–8616.

Issued: May 7, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Frontier Formation in Sweetwater County, Wyoming, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (OPPR), issued February 11, 1982 (47 FR 6883, February 17, 1982) [1] based on a recommendation by the Wyoming Oil and Gas Conservation Commission (Wyoming) in accordance with § 271.703(c) that the Frontier Formation be designated as a tight formation.

Evidence submitted by Wyoming supports the assertion that the Frontier Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Wyoming recommendation.

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

List of Subjects in 18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3101–3442; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective May 7, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding a new subparagraph (77) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(77) *Frontier Formation in Wyoming. RM79–76 (Wyoming–9).*

(i) *Delineation of formation.* The Frontier Formation is found in Sweetwater County, Wyoming, in Townships 23, 24 and 25 North, Ranges 101 and 102 West; Townships 24, 25 and 26 North, Range 103 West; and Townships 24 and 25 North, Range 104 West.

[1] Comments were invited and two favorable comments were received. No party requested a public hearing and no hearing was held.

(ii) *Depth.* The Frontier Formation is defined as being between the base of the Baxter Formation and the top of the Mowry Formation. The average depth to the top of the Frontier Formation is 9,500 feet.

[FR Doc. 82-13013 Filed 5-12-82; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-000 (Wyoming-10); Order No. 228]

High-Cost Gas Produced from Tight Formations; Wyoming; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

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

EFFECTIVE DATE: This rule is effective May 7, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511 or Victor Zabel, (202) 257-8616.

Issued: May 7, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Frontier Formation in Sweetwater and Lincoln Counties, Wyoming, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (OPPR), issued February 11, 1982 (47 F.R. 6884, February 17, 1982) [1] based on a recommendation by the Wyoming Oil and Gas Conservation Commission (Wyoming) in accordance with § 271.703(c) that the Frontier Formation be designated as a tight formation.

Evidence submitted by Wyoming supports the assertion that the Frontier Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Wyoming recommendation.

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

List of Subjects in 18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3101-3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective May 7, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding a new subparagraph (78) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(78) *Frontier Formation in Wyoming. RM79-76 (Wyoming-10).*

(i) *Delineation of formation.* The Frontier Formation is found in Sweetwater and Lincoln Counties, Wyoming, and encompasses Township 24 North, Range 114 West, Sections 1 and 12; Township 25 North, Ranges 112 and 113 West; Townships 26 North, Range 112 West, Sections 4, 9, 16 and 19-36; and Township 26 North, Range 113 West, Sections 25-36.

(ii) *Depth.* The vertical limits of the Frontier Formation are defined by the Baxter Shale above and the Mowry Shale below. The gross thickness of the formation averages between 200 and 250 feet, and the average depth to the top of the Frontier Formation is 8,500 feet.

[FR Doc. 13013 Filed 5-12-82; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-000 (Wyoming-11); Order No. 229]

High-Cost Gas Produced From Tight Formations, Wyoming; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

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

EFFECTIVE DATE: This rule is effective May 7, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

Issued: May 7, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Lewis Formation in Carbon and Sweetwater Counties, Wyoming, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (OPPR), issued February 12, 1982 (47 FR 7453, February 19, 1982) [1] based on a recommendation by the Wyoming Oil and Gas Conservation Commission (Wyoming) in accordance with § 271.703(c) that the Lewis Formation be designated as a tight formation.

[1] Comments were invited and two favorable comments were received. No party requested a public hearing and no hearing was held.

[1] Comments were invited and one comment supporting the recommendation was received. No party requested a hearing in this docket and no hearing was held.

Evidence submitted by Wyoming supports the assertion that the Lewis Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Wyoming recommendation.

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

List of Subjects in 18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3342; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective May 7, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (79) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(79) *The Lewis Formation in Wyoming.* RM79–76 (Wyoming–11).

(i) *Delineation of formation.* The Lewis Formation is found in Carbon and Sweetwater Counties, Wyoming, encompassing all or parts of:

Townships 21 and 22 North, Range 89 West
Townships 19 through 25 North, Range 90 West
Townships 13, 14, 18 through 21, and 23 through 25 North, Range 91 West
Townships 13 through 21 and 23 through 25 North, Range 92 West
Townships 13 through 25 North, Range 93 West
Townships 12 through 25 North, Range 94 West
Townships 12 through 25 North, Range 95 West
Townships 12 through 26 North, Range 96 West
Townships 12 through 26 North, Range 97 West
Townships 12 through 17 and 22 through 26 North, Range 98 West
Townships 12 through 16 and 22 through 26 North, Range 99 West
Townships 14 through 16 and 23 through 26 North, Range 100 West

(ii) *Depth.* The Lewis Formation's vertical limits are defined by the Fox Hills Formation above, or in the case where the Fox Hills Formation is not present, the Lance Formation above, and the Mesa Verde Formation below. The average depth to the top of the Lewis Formation is 7,800 feet.

[FR Doc. 82–13014 Filed 5–12–82; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–000 (Wyoming–12); Order No. 230]

High-Cost Gas Produced From Tight Formations, Wyoming; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

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

EFFECTIVE DATE: This rule is effective May 7, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511 or Victor Zabel, (202) 257–8616.

Issued: May 7, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Nugget Formation in Carbon County, Wyoming, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (OPPR), issued February 12, 1982 (47 FR 7454, February 19, 1982)[1] based on a recommendation by the Wyoming Oil and Gas Conservation Commission (Wyoming) in accordance with § 271.703(c) that the Nugget Formation be designated as a tight formation.

Evidence submitted by Wyoming supports the assertion that the Nugget Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Wyoming recommendation.

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

List of Subjects in 18 CFR Part 271

Natural gas, High-cost gas, Tight Formation.

(Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3101–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective May 7, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding a new subparagraph (80) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(80) *Nugget Formation in Wyoming. RM79–76 (Wyoming–12).*

(i) *Delineation of formation.* The Nugget Formation is found in Carbon County, Wyoming, in Township 21 North, Range 79 West, Sections 3 through 10, and 15 through 18; and Township 22 North, Range 79 West, Sections 31 through 34.

(ii) *Depth.* The vertical limits of the Nugget Formation are the Basal Sundance Formation above and the Chugwater Formation below. The

[1] Comments were invited and one comment in support of the recommendation was received. No party requested a public hearing and no hearing was held.

average depth to the top of the Nugget Formation is 11,690 feet.

[FR Doc. 82-13015 Filed 5-12-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 81

[CGD 77-136]

72 COLREGS Certificates of Alternative Compliance

AGENCY: Coast Guard, DOT.

ACTION: Final rule, correction.

SUMMARY: This document corrects the final rule on the Certificates of Alternative Compliance for the 72 COLREGS which appeared in the Federal Register of Thursday, April 1, 1982 (47 FR 13798). The Final Rule removed Appendices B and C. As there is no Appendix C, the correct action is to remove only Appendix B.

FOR FURTHER INFORMATION CONTACT: LCDR Kent Kirkpatrick, Office of Navigation, Room 1606, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593, (202) 245-0108.

List of Subjects in 33 CFR Part 81

Navigation (water).

PART 81—72 COLREGS: IMPLEMENTING RULES

Appendix B [Removed]

Accordingly, Part 81 of Title 33 of the Code of Federal Regulations is amended by removing Appendix B.

(Sec. 8, 91 Stat. 310 (33 U.S.C. 1607); 49 CFR 1.46(n)(11))

Dated: May 4, 1982.

R. A. Bauman,

Rear Admiral, Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-12732 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 110

[CGD77-212A]

Anchorage Grounds; Delaware Bay and River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is enlarging Anchorage A (Big Stone Anchorage), used for tanker lightering, off the entrance to the Mispillion River in Delaware Bay, southwest of the Brandywine Channel. The enlargement is needed to accommodate the number and sizes of vessels using the anchorage.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Commander A. D. Utara, the Executive Secretary, Marine Safety Council (G-CMC-24), U.S. Coast Guard, Room 4402, 2100 Second Street, SW., Washington, D.C. 20593, Tel: 202-426-1477.

SUPPLEMENTARY INFORMATION: On January 26, 1978, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) in the Federal Register for these regulations (43 FR 3595). Interested persons were requested to submit comments and eight comments were received prior to the expiration of the comment period. Subsequent to the initial close of the comment period, additional comments were received. By Federal Register notice of April 16, 1981 (46 FR 22206-07) the comment period was reopened. Five comments were received before the expiration of the reopened comment period and the comments received after the close of the initial comment period are now included in the docket of the proposal.

By this latter Federal Register notice (April 16, 1981), the availability of an Environmental Assessment and the scheduling of a public hearing on the proposed action was announced. This public hearing was held at 7:30 p.m. on May 19, 1981 at the Cape Henlopen High School, Kings Highway, Lewes, Delaware. Eight persons made oral statements at the hearing and three of them also submitted written statements there. A total of 35 persons attended the public hearing.

Drafting Information

The principal persons involved in drafting this rule are: Mr. D. W. Ziegfeld, Project Manager, Office of Marine Environment and Systems; Lieutenant Commander Michael S. Macie, Project Officer, Port Safety Branch, Third Coast Guard District; Mr. Jay Silberman, Environmental Specialist, Planning Office, Third Coast Guard District; and Lieutenant Collin Lau, Project Attorney, Office of the Chief Counsel, United States Coast Guard.

Discussion of Comments

A total of 21 written comments on the proposed action were received, three of which were submitted in conjunction with oral testimony at the public hearing. A few of the written comments were restatements from persons who had written earlier in response to the NPRM of January 26, 1978. Of the total, eight parties favored the expansion, nine commented without overt approval or disapproval, and two disapproved. Eight persons offered oral testimony at the public hearing. Three were in favor of the expansion, three were opposed and two did not express approval or disapproval. Several of the commenters represent organizations covering a wide range of interest, from shipping and port development concerns to environmental and citizen groups.

Many issues were raised by the written and oral comments. The question of projected vessel use levels in the anchorage was a primary issue. The Coast Guard has stated throughout that this change is needed to accommodate existing use levels, not in anticipation of or to entice any greater activity in the lower Delaware Bay. This conclusion is based on a thorough analysis of the number and sizes of vessels and lightering operations occurring in the Lower Bay over the past ten years and the capacity of the Bay fed oil industry in the Wilmington-Philadelphia area. Also, the number of lightering barge movements and, because of vessel and barge scheduling conflicts or the temporary lack of mooring space at offloading points upriver at refineries and storage facilities, congestion in the anchorage has posed a problem in the past several years. This problem is one of vessels being forced to move into and then out of the anchorage, because their barges were unavailable, and then back in when the barges become available. The point is that the various movements into and out of the anchorage and the movements of lightering barges through the anchorage amongst the anchored vessels pose a hazard due to the small area of the anchorage and the number of such movements. A larger designated lightering anchorage area will eliminate most of the vessel movements and offer more safe maneuvering area for vessels and lightering barges. Presently due to the above stated reasons and also for general cargo vessels awaiting a favorable tide or for berthing space upbay or upriver, the Coast Guard assigns anchorage space to the southeast of Anchorage A. This is done on almost a continual basis and is a matter of concern because the area used is not shown on charts as being an anchorage. Expansions would display on charts the extent and limits of the anchorage, thus alerting vessels transiting the Bay.

Another issue raised is the possible use of the anchorage for the bulk loading of coal for export. Anchorage A is presently designated for oil lightering. This expansion, as proposed does not include authorization for the bulk loading of any other cargoes. A change

in the designated use of this anchorage, other than for simple anchoring awaiting a tide or a berth, would constitute a substantial departure from the proposal and would require a new notice of proposed rulemaking and public comment period, and possibly a public hearing. The amendment being presented here does not include the bulk loading of coal at Anchorage A.

One of the commenters has recommended that either the existing or the expanded anchorage include separately delineated anchorages within the broader anchorage boundaries. These separate anchorages would essentially constitute liberally designed vessel swing circles, the purpose being to anchor vessels well away from the overall anchorage boundaries, and thus shoaling areas, and also to better control the density and spacing of tankers within the anchorage. This, it is suggested, would create the spacing needed to ensure safe barge and vessel movements and would also provide a margin of safety in the eventuality a vessel drags anchor or loses power while underway. Essentially, present use of the anchorage employs such an approach, although separate swing circles are not laid out on the chart depiction of the anchorage. The vessel is directed by the Captain of the Port Philadelphia to the anchorage. A position for anchoring is chosen by the vessel's pilot based on considerations similar to the above. The vessel's position within the anchorage is then reported to the Captain of the Port. The problem with the proposed delineated sub-anchorages is the proposal's inherent rigidity. Better use of the space due to changing conditions or the various sizes of vessel would be difficult, if not impossible, in the face of separate anchorages, depicted as circles, shown within the broader anchorage area drawn on charts. The desired end, a safely managed anchorage, can be attained using presently available and practised control measures, and without the unnecessary rigidity posed by the recommendation.

Another commenter pointed to the "proximity" of the expanded anchorage to the main ship channel (Brandywine Channel). This proximity is more apparent than real. While the actual distance between the channel and the anchorage does decrease from about 5,400 yards to 4,000 yards (two nautical miles), the more important consideration is position. The expanded anchorage is parallel to the Brandywine Channel and the lower part of the anchorage is westerly of Brown Shoal. This channel entrance is basically straight on an inbound course to the northnorthwest from the entrance to the Bay. For an upbound vessel to wander into the anchorage would require a significant error to the west, the kind of piloting error that is highly unlikely. The downbound vessel is even more constrained by shoals to the right (southwest) of the channel between the anchorage and the channel. At the channel entrance a significant course error of almost 90 degrees would be required to mistakenly enter the southeasterly corner of the anchorage.

Other commenters expressed the position that the total number of vessels in the existing anchorage and within the Delaware Bay and River should be strictly limited and controlled. This would include the scheduling of vessels so that congestion did not occur. Vessels arrive at the Delaware Bay from practically every major seaport nation in the world. Bulk oil is only one of the many commodities moved through the ports along the Delaware River. Millions of tons of dry and general cargo, from containerized to dry bulk (grain, coal, etc.), pass through the area each year. Moreover, Delaware Bay and the Chesapeake-Delaware Canal are part of the Intracoastal Waterway, a major protected route for thousands of barges, small commercial coastal vessels and recreational craft each year. Scheduling the Delaware Bay and River and all the associated port facilities of Pennsylvania, New Jersey, Delaware (and even some of Maryland and Virginia) would be a monumental task. Of course, free enterprise would be drastically affected and some businesses would eventually suffer from vessel entry, lay-over, lay-up, intra-harbor movement and exit decisions having far reaching economic impacts throughout the port and inland service areas. There are lesser measures, such as controlling vessel movements at the entrance to the Bay and even within the Bay and River. This would be a Vessel Traffic Service (VTS). The need for such a VTS has been studied by the Coast Guard at least three times since 1973, including a public hearing held in Philadelphia in 1977. The conclusion arrived at subsequent to these studies has been that other measures, such as changes or improvements to aids to navigation, were effective and less costly than a VTS. Some of these changes and improvements have already been implemented.

One commenter stated that the Coast Guard should not proceed with enlarging the anchorage, but should instead develop a better alternative. The issue of not enlarging the anchorage ("No Action") was addressed in the Environmental Assessment (EA), which concluded that the present risk of a collision, ramming or grounding with resultant spill was unacceptable when the option of expanding the anchorage was available. Several other alternatives, including a ban on lightering, were examined and were found to be either less cost effective, potentially more damaging to the environment, and/or infeasible at this time.

A question was asked concerning why the safety ("mitigating") measures discussed in the EA (increased monitoring of lightering, improved aids to navigation in Delaware Bay, additional spill containment/cleanup equipment) have not been implemented. Improved aids to navigation are being implemented in the Delaware Bay. Additional Coast Guard owned containment/cleanup equipment and increased monitoring activity will not be funded in the near future due to budget constraints.

A request was also made for the Coast Guard to take a more active role in supervising the lightering operation. The 25 year history of lightering in Delaware Bay has shown the lightering crews to be very competent and not in need of outside supervision. The Coast Guard feels that the present level of monitoring is adequate; if spill rates increase to unacceptable levels, increased monitoring or supervision would be reconsidered at that time.

Another person expressed the fear that the anchorage enlargement would lead to an increase in refinery capacity in the Wilmington-Philadelphia area, which would bring about more oil traffic and spills. The Coast Guard EA determined that the growth of lightering is dependent on an increase in refinery activity and not vice versa, and that any significant expansion of refinery capacity in this area is very unlikely due to strong economic and environmental disincentives.

The question was raised as to why an Environmental Impact Statement (EIS) was not prepared for the project. The reason given in the EA was that there was a very low probability of significant environmental impacts from the proposed anchorage enlargement. This conclusion was based on the lightering operations excellent safety record, a sharp decrease in lightering activity for the foreseeable future, improved tanker and navigational safety features, and

the development of oil spill contingency plans by the oil companies and the Coast Guard.

Summary of Final Evaluation

The regulations have been evaluated under E.O. 12291 and the Department of Transportation Order 2100.5. "Policies and Procedures for Simplification, Analysis and Review of Regulations," dated May 22, 1980, and have been determined not to be major and to be nonsignificant. The expansion of an anchorage does not involve impacts on competition, businesses, State or local government, or the regulations of other programs and agencies. Because of this, no evaluation has been prepared.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

PART 110—ANCHORAGE REGULATIONS

Final Regulations

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended by revising § 110.157(a)(1) to read as follows:

§ 110.157 Delaware Bay and River.

(a) *The anchorage grounds.* (1) Anchorage A (tanker lightering) off the entrance to Mispillion River. In Delaware Bay southwest of Brandywine Channel beginning at latitude 38°53'57" N., longitude 75°08'00" W., thence northwesterly to latitude 39°01'22" N., longitude 75°13'25" W., thence southwesterly to latitude 39°00'49" N., longitude 75°14'57" W., thence southeasterly to latitude 38°53'22" N., longitude 75°09'26" W., thence northeasterly to the point of beginning. This anchorage is for the specific purpose of allowing deep draft tankers to anchor and lighter their cargo before proceeding up the Delaware River. Supervision over the anchoring of vessels and over cargo transfer operations in Anchorage A is exercised by the Captain of the Port, Philadelphia. The regulations in paragraphs (b)(1) and (b)(2) of this section do not apply to this anchorage.

* * * * *

(Sec. 7, 38 Stat. 1053 as amended (33 U.S.C. 471); sec. 6(g)(1), 80 Stat. 940 (49 U.S.C. 1655(g)(1)) 49 CFR 1.26(c)(1))

Dated: April 30, 1982.

J. S. Gracey,

Commander, Third Coast Guard District.

[FR Doc. 82-12730 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD2 82-01]

Drawbridge Operations Regulations; Muskingum River, Ohio

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the owner, the Coast Guard is changing the regulations governing the Consolidated Railroad (Conrail) Drawbridge over the Zanesville Canal at Mile 77.06, Muskingum River. The change will require advance notice for opening the draw. The effect of the action is to relieve the bridge owner from having a person constantly available to open the draw while providing for the reasonable needs of navigation.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: S. W. Thoroughman, Chief, Bridge Branch, Room 400, 1430 Olive Street, St. Louis, MO 63103 (314-425-4607).

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: S. W. Thoroughman, Project Manager, and Lieutenant Commander R. A. Knee, U.S. Coast Guard, Project Attorney, c/o Commander, Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri.

SUPPLEMENTARY INFORMATION: On June 19, 1981 the Second Coast Guard District published a Local Notice to Mariners initiating a 60-day trial period on July 1, 1981 to test the proposed regulations. On November 16, 1981 the Coast Guard published a Notice of Proposed Rulemaking (46 FR 56208) concerning this amendment. The proposed rule included a requirement that the owner of the drawbridge maintain operating machinery in a serviceable condition and open and close the draw at frequent intervals to insure satisfactory operation. Upon review, this provision has been stricken from the final rule as unnecessary because the duty to maintain the draw in an operable condition is implicit in the statute and regulations governing the operation of drawbridges and the permit authorizing the existence of this drawbridge. In addition subparagraphs (ii) and (iii) have been reversed in order to place these in a more logical order.

Discussion of Comments

No comments were received in response to the Notice of Proposed Rulemaking. One comment was received in response to the Local Notice to Mariners. The District Engineer, U.S. Army Corps of Engineers, Huntington District, suggested that the regulation provide for the emergency opening of the draw. A requirement that, in case of emergency, the draw shall be opened promptly upon notification was included in the proposed rule.

This final regulation has previously been determined to be non-major under Executive Order 12291, and also to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). The final regulation has previously been certified under Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164) at 46 FR 56208 (November 16, 1981). No information has been received which changes those determinations and certification. The bridge has been opened on an average of once per year. There are no known plans for development of the waterway capacity which would increase commercial usage or otherwise require additional openings. Presently § 117.560(g)(5) of Title 23, Code of Federal Regulations is reserved. This regulation will amend that section.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.560(g)(5) to read as follows:

§ 117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(g) * * *

(5) Muskingum River, Ohio; Conrail Bridge across the Zanesville Canal. The draw shall open on signal Tuesday through Friday if the Conrail office is notified by 12:01 p.m. on day preceding the day and time the opening is required. For openings Saturday through Monday, the Conrail office shall be notified by 12:01 p.m. on Friday specifying which day and time the opening is required. In case of emergency, the draw shall be open as soon as possible.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: April 29, 1982.

T. H. Ruttledge,

Admiral, U.S. Coast Guard, Acting District Commander.

[FR Doc. 82-12733 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Parts 166 and 209

[CGD 81-040]

Shipping Safety Fairways, Adoption of Corps of Engineers' Designations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule adopts certain shipping safety fairway regulations which were originally promulgated by the U.S. Army Corps of Engineers (COE) in 33 CFR 209.135 and moves them to new 33 CFR Part 166. There will be no changes to the fairway arrangements by this adoption.

Fairways were established in the Gulf of Mexico by the COE to preserve areas for safe navigation. Fairways are areas where no permits for off-shore structures were issued. In 1978, the Ports and Waterways Safety Act (PWSA) was amended to delegate authority for designating fairways to the Department of Transportation and the Coast Guard. This administrative action merely moves the existing COE Gulf fairways in 33 CFR 209.135 to new 33 CFR Part 166.

EFFECTIVE DATE: These rules are effective May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Christopher Young, Office of Navigation (G-NSR), Room 1402, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593 (202-426-4958).

SUPPLEMENTARY INFORMATION: The Coast Guard has determined for good cause that a notice of proposed rulemaking (NPRM) is unnecessary and that these rules shall be effective upon publication as per 5 U.S.C. 553(b)(3)(B) and (d)(3).

These rules merely adopt rules currently in effect in 33 CFR 209.135 and places them in new 33 CFR Part 166. There have been no changes to the existing fairway arrangement. This action was made necessary by the Ports and Waterways Safety Act (PWSA) which delegates the authority for the establishment of fairways to the Department of Transportation and the Coast Guard.

Drafting Information

The principal persons involved in drafting this rulemaking are: Mr. Christopher Young, Project Manager, Office of Navigation, and Lieutenant Michael Tagg, Project Attorney, Office of Chief Counsel.

Discussion of Regulations

Background

A shipping safety fairway is a designated area of a waterway where no fixed structures are permitted to be erected. It increases navigation safety by insuring that an obstruction-free route is available to vessel traffic transiting the vicinity.

The existing shipping safety fairways in the Gulf of Mexico are described in 33 CFR 209.135. They were established by the U.S. Army Corps of Engineers under authority granted by the Outer Continental Shelf Lands Act (67 Stat. 463; 43 U.S.C. 1333(e)) to issue permits for structures on the OCS. In the interests of safe navigation, the Corps promulgated regulations to designate specific areas in which no permits would be issued.

In the Gulf of Mexico, there are over 800 miles of 2-mile wide fairways, some of which are over 100 miles out into the Gulf. They were established by the Corps between 1948 and 1968 (with a few subsequent amendments) to reduce the risk of collision between vessels and the growing number of off-shore drilling structures. Many interests, including oil companies, maritime associations, shipping companies, and government agencies, participated in the development of the fairway system.

In 1978, the Ports and Waterways Safety Act (PWSA) (Pub. L. 95-474; 92 Stat. 1473; 33 U.S.C. 1223(c)) was amended to delegate authority to the Department of Transportation and the Coast Guard to establish vessel routing measures, including fairways and fairway anchorages. The PWSA authority to establish vessel routing measures is only to be exercised after a study into the need for designated safe access routes due to traffic density and use conflict.

The mandated study was initiated by notice on April 16, 1979 (44 FR 22543), and modified on January 31, 1980 (45 FR 7027). Study results for the ports along the coast of the Gulf of Mexico were published in the **Federal Register** on October 8, 1981 (46 FR 49989). The study for that region found strong public approval of the current system of fairways in the Gulf of Mexico and recommended that the existing Corps of Engineers fairways be adopted under PWSA authority. No major widening or lengthening of the fairways was proposed. The study report said, in part: "Experience with these fairways over the last fifteen years has shown them to be an effective routing measure in reducing the risk of vessel/structure collisions" (46 FR 49990). However, some minor modifications and additions are expected in future proposals based on the study.

In order to implement the PWSA, and the Port Access Route study recommendations, the Coast Guard has worked with the Corps of Engineers to coordinate the transfer of authority over shipping safety fairways in the Gulf of Mexico. Although it will be the responsibility of the Coast Guard to designate fairways, it will continue to be the responsibility of the Corps to enforce the regulation by denying permits for structures in the defined areas.

The Coast Guard is publishing these regulations as new Part 166 of Title 33, Code of Federal Regulations. All responsibilities in 33 CFR 209.135 which are not included under Coast Guard authority granted by PWSA and adopted in this action (i.e., permit-issuing procedures) will remain with the Corps of Engineers. Those regulations which remain in 33 CFR 209.135 and are duplicative of the Coast Guard fairway designations are expected to be deleted by the Corps of Engineers.

The following changes have been made in the text of the COE regulations in this adoption to reflect the changes in administration of these rules:

1. Section 209.135 has been moved to § 166.200.

2. In paragraph (b)(1) a cross reference to COE permit requirements has been added, and the words "Department of the Army" have been deleted.

3. In paragraph (b)(2) the words "Department of the Army may permit" have been deleted.

4. In paragraph (b)(2)(i) the words "district engineer" are changed to read "Corps of Engineers."

5. In paragraph (b)(2)(ii) the words "at least 500 feet from" are changed to "outside of."

6. Old subparagraph (iv) is deleted, following subparagraphs are re-numbered.

7. Old paragraph (b)(2)(v) is deleted; following subparagraphs are re-numbered.

8. In paragraph (b)(3) the words "Department of the Army" are deleted.

9. In paragraph (c) the words following "interested parties" are changed to read "in accordance with 92 Stat. 1473, 33 U.S.C. 1223(c)."

Regulatory Analysis

These regulations have been evaluated under E.O. 12291 and D.O.T. Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," dated May 22, 1980, and have been determined to be neither significant nor major.

The Corps of Engineers originally developed these fairways under its permit-issuing authority to control structures on the waterways and promote navigation safety. The Ports and Waterways Safety Act (PWSA) specifically delegates fairways

designation authority to the Department in which the Coast Guard is operating. The present action will merely adopt the existing fairways in the Gulf of Mexico.

Use of fairways is not mandatory. However, vessel operators may choose fairways as a more efficient and safe way of navigating through an area congested with platforms and artificial islands.

The presence of fairways can interfere with "direct drilling" of wells for oil and gas. In many cases, "slant" or "directional" drilling can be reasonably substituted for "direct drilling," though at a higher cost. The marginal cost of substitution can only be reasonably calculated on an ad hoc basis. This marginal cost depends heavily on: (1) Geological survey data; (2) estimated natural resource quantities; and (3) resource location. The cost of directional drilling can range from 40% to 50% over the cost of a direct, vertical drilling operation.

By comparison, the damage to a vessel caused by a vessel/structure casualty can range from $10,000 to $10,000,000. In addition, there may be injuries or loss of life, and environmental damage due to pollution. While the likelihood of such incidents cannot be established, fairways aid in reducing the risk of such incidents by providing efficient and safe routes for navigating through an area congested with platforms and artificial islands.

In a situation where the marginal cost of "slant drilling" outweighs benefits of having fairways at a specific site, changes to specific segments of a fairway can be made where necessary. The current fairway system as adopted is not now a controversial means of maintaining safe navigation, as concluded by the Port Access Route Study Report published on October 8, 1981, in 46 FR 49989.

Regulatory Flexibility Analysis

These rules are exempted from the requirements as set forth in the Regulatory Flexibility Act (sec. 603, Pub. L. 96-354; 5 U.S.C. 603(a)) because an NPRM is not required under 5 U.S.C. 553. This administrative action merely adopts existing regulations in 33 CFR 209.135 and places them in new part 33 CFR Part 166 without substantive change.

List of Subjects in 33 CFR Part 166

Anchorage grounds, Navigation (water).

In consideration of the foregoing, the Coast Guard proposes to amend Subchapter P, chapter I of Title 33 of the Code of Federal Regulations is amended as follows:

1. A new Part 166 is added to read as follows:

PART 166—SHIPPING SAFETY FAIRWAYS

Sec.
166.100 [Reserved]
166.200 Shipping safety fairways and anchorages, Gulf of Mexico.

Authority: Sec. 4(c), Pub. L. 95-474, 92 Stat. 1473 (33 U.S.C. 1223); 49 CFR 1.46(n)(4).

§ 166.100 [Reserved]

§ 166.200 Shipping safety fairways and anchorage areas, Gulf of Mexico.

(a) *Purpose.* Fairways and anchorage areas as described in this section are established to control the erection of structures therein to provide safe approaches through oil fields in the Gulf of Mexico to entrances to the major ports along the Gulf Coast.

(b) *Permits.* (1) Department of the Army Permits are required pursuant to law (30 Stat. 1151; 33 U.S.C. 403 and 92 Stat. 635; 43 U.S.C. 1333(e)) for work or structures in the Gulf of Mexico in coastal waters and the waters covering the Outer Continental Shelf. Permit requirements are described in Corps of Engineers regulations, 33 CFR Parts 320-330. The erection of structures will not be permitted in the areas designated as fairways since structures located therein would constitute obstructions to navigation, except that the temporary placement of anchors may be allowed by these regulations.

(2) Temporary anchors and attendant cables or chains for floating or semisubmersible drilling rigs may be placed within a fairway provided the following conditions are met:

(i) The installation of anchors within fairways to stabilize semisubmersible drilling rigs must be temporary and shall be allowed to remain only 120 days. This period may be extended by the Corps of Engineers provided reasonable cause for such extension can be shown and the extension is otherwise justified.

(ii) Drilling rigs must be outside of any fairway boundary to whatever distance is necessary to insure that minimum clearance over an anchor line within a fairway will be 125 feet.

(iii) No anchor buoys or floats or related rigging will be allowed on the surface of the water or to a depth of 125 feet from the surface, within a fairway.

(iv) Navigation aids or danger markings must be installed as required by the U.S. Coast Guard.

(3) Permits for the erection of structures within an area designated as an anchorage area may be granted, but the number of structures will be limited by spacing, as follows: The center of a structure to be erected shall be not less than two (2) nautical miles from the center of any existing structure. In a drilling or production complex, associated structures shall be as close together as practicable having due consideration for the safety factors involved. A complex of associated structures, when connected by walkways, shall be considered one structure for the purposes of spacing. A vessel fixed in place by moorings and used in conjunction with the associated structures of a drilling or production complex, shall be considered an attendant vessel and its extent shall include its moorings. When a drilling or production complex includes an attendant vessel and the complex extends more than five hundred (500) yards from the center of the complex, a structure to be erected shall be not closer than two (2) nautical miles from the near outer limit of the complex. An underwater completion installation in an anchorage area shall be considered a structure and shall be marked with a lighted buoy as approved by the United States Coast Guard.

(c) *Modification of the areas.* The fairways and anchorage areas are subject to modification but only after due notification and consideration of the views of interested parties, in accordance with 92 Stat. 1473; 33 U.S.C. 1223(c).

PART 209—ADMINISTRATIVE PROCEDURE

§ 209.135 [Amended]

2. New Part 166 is further amended by redesignating § 209.135(d) as § 166.200(d).

Dated: April 5, 1982.

R. A. Bauman,

Rear Admiral, Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-12865 Filed 5-11-82; 8:45 am]
BILLING CODE 4910-14-M

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Penalties—Violations of Seaway Regulations and Assessment, Mitigation or Remission of Penalties

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation is amending

Subpart B—Penalties—Violations of Seaway Regulations, and Subpart C—Assessment, Mitigation or Remission of Penalties, to reflect changes necessitated by the enactment of the Port and Tanker Safety Act of 1978 and the subsequent delegation of authority to the Administrator of the Saint Lawrence Seaway Development Corporation.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, General Counsel, (315 764–3245).

SUPPLEMENTARY INFORMATION:

Background

On March 15, 1982, the Seaway Corporation published in the **Federal Register** (47 FR 11039) proposed amendments to Subparts B and Subpart C for the reasons set forth in the summary.

No comments were submitted in response to the notice of proposed rulemaking.

On October 17, 1978, the Port and Tanker Safety Act of 1978 was enacted, amending the Ports and Waterways Safety Act of 1972. On July 21, 1980, a Delegation of Authority to the Administrator of the Saint Lawrence Seaway Development Corporation from the Secretary of Transportation was published in the **Federal Register** (45 FR 48630). This delegated certain procedural functions vested in the Secretary of Transportation by the Port and Tanker Safety Act of 1978, and related to the power to issue and enforce regulations and conduct investigations under the Act with respect to the Saint Lawrence Seaway. As a result, § 401.101, Criminal Penalty, and § 401.102, Civil Penalty of Subpart B, are amended to reflect that a fine of not less than $5,000 is eliminated as a criminal penalty for violation of a Seaway Regulation. Provision is also made for penalties for any person who uses a dangerous weapon or engages in conduct that causes or threatens bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder. The civil penalty for violation of a Seaway Regulation is increased from $10,000 to $25,000. Also, § 401.201(a) and § 401.202 of Subpart C are amended to reflect the new delegation of authority under the Port and Tanker Safety Act.

The Saint Lawrence Seaway Development Corporation certifies that, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354) this final rule will not have a significant impact on a substantial number of small entities. The Seaway Regulations relate to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators, and therefore any resulting costs will be borne primarily by foreign vessels. On the other hand, the economic benefits derived from a safe and efficiently operated St. Lawrence Seaway are considerable. Finally, the Corporation has determined that this rulemaking is not a major Federal action affecting the quality of the human environment under the National Environmental Policy Act, and therefore an environmental impact statement is not required. Furthermore, it is not a major rule under Executive Order 12291, as noted in the DOT Semi-Annual Regulations Agenda and Review List published in the **Federal Register** October 1, 1981, nor a significant rule under DOT Regulatory Policies and Procedures, 44 FR 11034, for the same reason.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation is amending Title 33 of the Code of Federal Regulations as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart B—Penalties—Violations of Seaway Regulations

1. Section 401.101 is amended by revising paragraph (a) to read as follows:

§ 401.101 Criminal penalty.

(a) A person who willfully and knowingly violates a regulation shall be fined not more than $50,000 for each violation or imprisoned for not more than five years, or both, and any person who, in the willful and knowing violation of this Act or any regulation issued hereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, shall, in lieu of the penalties prescribed in this paragraph be fined not more than $100,000 or imprisoned for not more than ten years, or both.

* * * * *

2. Section 401.102 is amended by revising paragraph (a) to read as follows:

§401.102 Civil penalty.

(a) A person, as described in § 401.101(b), who violates a regulation is liable to a civil penalty of not more than $25,000.

* * * * *

Subpart C—Assessment, Mitigation or Remission of Penalties.

3. Section 401.201 is amended by revising paragraph (a) to read as follows:

§401.201 Delegation of authority.

(a) The Secretary of Transportation, by 49 CFR 1.52(a) has delegated to the Administrator of the Saint Lawrence Seaway Development Corporation the authority vested in him under sections 4, 5, 6, 7, 8, 12 and 13 of SEC. 2 of the Port and Tanker Safety Act of 1978, Pub. L. 95–474 (92 Stat. 1471), as it pertains to the operation of the Saint Lawrence Seaway.

* * * * *

4. Section 401.202 is revised to read as follows:

§ 401.202 Statute providing for assessment, mitigation or remission of civil penalties.

Section 13 of SEC. 2 of the Port and Tanker Safety Act of 1978 authorizes the assessment and collection of a civil penalty of not more than $25,000 from anyone who violates a regulation issued under that section.

(68 Stat. 93–96, 33 U.S.C. 981–990, as amended; and secs. 12 and 13 of SEC. 2 of Pub. L. 95–474, 92 Stat. 1471)

Issued at Washington, D.C. on May 7, 1982.

Saint Lawrence Seaway Development Corporation.

D. W. Oberlin,

Administrator.

[FR Doc. 82–13075 Filed 5–12–82; 8:45 am]

BILLING CODE 4910–61–M

DEPARTMENT OF EDUCATION

34 CFR Parts 655, 656, 657, 658, and 660

International Education Programs; Correction

AGENCY: Education Department.

ACTION: Final rule; Correction.

SUMMARY: On April 1, 1982 final regulations were published for the International Education Programs (47 FR 14114–14126). Several technical errors were made in the Summary of Comments and Responses section of the preamble.

FOR FURTHER INFORMATION CONTACT: Dr. Richard T. Thompson, 202–245–2356.

The errors are corrected to read as follows:

1. On page 14114, second column, first paragraph of the Summary of Comments and Responses, the last sentence is changed to read, "The old section numbers are followed by the new section numbers in parentheses."

2. On page 14115, first column, sixth paragraph, second line, the section number § 657.33(c) is changed to read § 657.40(b).

3. On page 14115, first column, last paragraph, last line, the section number § 656.10(a)(3) is changed to read § 656.10(a)(2).

4. On page 14115, third column, the fourth paragraph is changed to read as follows: *Response.* Section 658.36 is deleted. The duration of a project is covered by Direct Grant Programs, 34 CFR 75.250.

(Catalog of Federal Domestic Assistance Number 84.015, International Studies Centers and Foreign Language and Area Studies Fellowships; 84.016, International Studies Program and 84.017, Foreign Language and Area Studies Research)

Dated: May 3, 1982.

Daniel Oliver,

General Counsel.

[FR Doc. 82-12979 Filed 5-12-82; 8:45 am]

BILLING CODE 4000-01-M

ENVIROMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2072-5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA today is approving a revision to the Vigo County, Indiana sulfur dioxide (SO_2) State Implementation Plan (SIP). Indiana submitted this revision in response to Part D of the Clean Air Act (CAA). EPA proposed approval of this revision on September 1, 1981 (46 FR 43855), received comments from six groups, and is responding to their comments in today's notice.

EFFECTIVE DATE: This final rulemaking becomes effective on May 13, 1982.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Robert B. Miller at (312) 886-6031 before visiting the Region V Office).

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

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

Air Pollution Control, Vigo County Health Department, 120 S. Seventh Street, Terre Haute, Indiana 47807

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air Programs Branch, Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962) and on October 5, 1978 (43 FR 45993), pursuant to the requirements of Section 107 of the CAA, EPA designated certain areas in each Region V State as nonattainment with respect to the National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP), SO_2, carbon monoxide, ozone, and nitrogen dioxide.

Part D of the CAA requires each State to revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary SO_2, NAAQS by December 31, 1982.

These SIP revisions must also demonstrate attainment of the secondary NAAQS as expeditiously as practicable. The requirements for an approvable SIP are described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

In response to Part D of the CAA, on June 26, 1979, the State of Indiana submitted revised SO_2 control strategies and Air Pollution Control Regulation 13 (APC-13) to EPA. This submittal included a control strategy for Vigo County that was developed by the Indiana Air Pollution Control Division and regulations which were promulgated by the State on June 19, 1979.

While the State developed its SO_2 plan for the County, an industrial task force developed its own control strategy. The Wabash Valley Environmental Association (WVEA), an organization of 20 local firms, submitted its county-wide plan to the Indiana Air Pollution Control Board (IAPCB) in September 1979. After reviewing the WVEA plan, the State agreed to substitute the WVEA plan for the State plan in APC-13. Consequently, on October 4, 1979, the IAPCB officially withdrew its control strategy for Vigo County, including the portion of APC-13 pertaining to Vigo County. On January 7, 1980, the State promulgated the WVEA SO_2 plan for Vigo County, including a revised APC-13 which incorporated the new Vigo County emission limitations.

On February 11, 1980, the State submitted to EPA its newly promulgated SO_2 control strategy for Vigo County. Technical support materials were submitted in September 1979, on December 10, 1979 and on May 30, 1980. The September 1979 submittal included the technical rationale for the new control strategy for SO_2 in Vigo County. The later submittals provided additional analyses to correct technical deficiencies in the initial submittal. The State recodified its SO_2 regulation APC-13 as 325 IAC Article 7 and submitted it to EPA on October 6, 1980. EPA proposed to approve the Vigo County SO_2 strategy on September 1, 1981 (46 FR 43855).

The Vigo County strategy consists of a general, statewide regulation, 325 IAC Article 7, and an appendix to the regulation (325 IAC 7-1-8) which establishes specific emission limitations for certain Vigo County sources, as well as for sources in other counties. On March 27, 1980, EPA proposed to approve, in part, the general, statewide SO_2 regulation, APC-13 (45 FR 20743). EPA proposed no action at that time on the Vigo County portion of APC-13. EPA has recently approved the recodified regulation, 325 IAC Article 7, with certain exceptions: it took no action on either the Vigo County strategy or the 30-day compliance method contained in the general regulation.

Today, EPA is approving the Vigo County portion of the SO_2 strategy. As with EPA's action on the general regulation, however, and as discussed more fully below, EPA will presently take no action on the 30-day averaging provision in the Vigo County strategy. EPA's detailed analysis of the Vigo County strategy is contained in an EPA technical memorandum and in the September 1, 1981 notice of proposed rulemaking. Both of these are available for review at the above addresses.

Public Comments

In response to its Notice of Proposed Rulemaking, EPA received comments from Indiana, three other States, Vigo County, and a local utility. Following is a summary of the significant comments and EPA's responses to each:

Comment: One commentor raised the following questions concerning the 10% derating of the Public Service Indiana (PSI) Wabash River power plant: a) is the derating enforceable; b) will the derating involve any physical changes; and c) can the load reduction be offset by increasing hours of operation?

Response: The 10% derating of the Wabash River power plant is contained in the State regulation and will become part of the federally approved SIP for Vigo County. EPA and the State maintain that the 10% derating in the capacity of the plant is properly enforceable, even though no physical changes to the plant are required, because compliance can be determined by reviewing charts, logs, and records kept by PSI. Because the plant was modeled assuming 24-hour continuous operations to determine its air quality impacts, any possible increase in the hours of operation will not affect attainment of the SO_2 standards.

Comment: PSI notified EPA that the new stack at its Wabash River plant will not be completed until July 1984. 325 IAC 7-1-6 requires compliance with the new regulations by December 1981, but allows the State to extend this deadline up to December 1982 under certain circumstances. The State has extended the compliance schedule for this plant until December 31, 1982. In PSI's comments, it requested an EPA extension of the compliance deadline or an exemption until July 1984.

Response: 325 IAC 7-1-6 requires that compliance be achieved by no later than December 31, 1981, except as noted above. EPA has no authority in the context of this rulemaking to extend the compliance date beyond that allowed by 325 IAC 7-1-6 or to exempt the Wabash River power plant from the compliance deadline. Any such request would have to be initiated by the State and would have to be the subject of separate rulemaking. Furthermore, EPA's Continuity Policy, as discussed in more detail below, does not normally allow a source additional time to come into compliance with a new, less stringent emission limitation.

The SIP relaxation to a 4.04 lbs/MMBTU emission limit for the Wabash River plant is based upon a new, taller stack. If the attainment demonstration had been based on the existing stacks, a different, probably more stringent, emission limit would be required for this plant. Therefore, EPA cannot approve the 4.04 lbs/MMBTU emission limit without also requiring that the new stack be in place. EPA is today approving the 4.04 lbs/MMBTU emission limitation for the Wabash River power plant, to be effective when the new stack is in place. Until that time, the existing SIP emission limit of 1.2 lbs/MMBTU remains applicable.

Comment: Several commentors urged EPA to approve the 30-day averaging provision in 325 IAC 7-1-3.

Response: EPA recognizes the problem of sulfur variability. Consequently, on February 14, 1980, EPA published a **Federal Register** Notice notifying the public that EPA had begun a review of its policies and procedures for regulating large coal-fired boilers. Among the issues under review are: a) compliance test methods; b) sulfur variability; c) modeling guidelines; and d) averaging periods for emission limitations. This review will address 30-day averaging, appropriate methods for evaluating 30-day averages, and protection of the NAAQS. Based on its review, EPA will make any necessary modifications in its policies. Until this review is complete, EPA will not rulemake on 30-day averaging in Vigo County. EPA has also announced its intention to proceed under an interim enforcement policy for Indiana, which will be used to establish the Agency's enforcement priorities (December 31, 1981, 46 FR 63270).

Comment: One commentor questioned the application of the RAM-urban model to Vigo County. The commentor claimed that this model is inappropriate because it does not consider terrain effects and because there was no analysis of the urban/rural status of the area. The commentor also asked if the model was calibrated.

Response: Prior to the modeling analysis, EPA classified the area as urban based on the general characteristics of the City of Terre Haute (i.e., city size, source density, and land use), where the majority of the sources are located. This procedure was consistent with the EPA urban/rural policy at the time the modeling began. Furthermore, since the terrain in the area is gently rolling (i.e., no significant terrain differences), EPA additionally determined that the reference model for Vigo County at that time should be RAM-urban. No calibration of the short-term RAM-urban model was attempted. This is appropriate because calibration of short-term models requires much more data than that which is available for most areas, including Vigo County. Uncertainties in Vigo County source and meteorological data restrict the ability to estimate the measured concentration at an exact location during a specific increment of time. These uncertainties prevent the calibration of short-term models, such as RAM-urban.

Comment: One commentor claimed that the modeling analysis was deficient because it used only one year of meteorological data, not five years as required by EPA guidelines.

Response: EPA has reviewed the issue of meteorological data and has determined that because EPA's policy required only one year of meteorological data for the Part D SIPs which were to be submitted by January 1, 1979, EPA is not requiring the State to remodel using 5 years of meteorological data. However, 5 years of appropriate meteorological data are currently available, and all future Vigo County modeling must use 5 years of data.

Comment: One commentor objected to the absence of area sources in the modeled emission inventory. The commentor maintained that the inclusion of area sources should increase the predicted annual concentrations enough to cause violations of the annual standard.

Response: Area sources were not modeled because an inventory was not available. Area sources are not expected to have a significant impact on Vigo County. All point sources in the County were considered, however, the impact from area sources was still included indirectly in the analysis through calculations of the background concentration. The derived background accounted for the impacts due to distant SO_2 sources, nearby area and small point sources, and natural sources. Consequently, inclusion of an area source inventory would be double-counting these source impacts and is, therefore, unnecessary.

Comment: One commentor claimed that the modeled concentrations should be running averages, not block averages.

Response: EPA modeling guidelines state that block averaging times should continue to be used for modeling purposes. Thus, modeled running averages are not required.

Comment: The States of New York and Connecticut raised a number of issues related to the potential interstate impacts of EPA's approval of the Vigo County plan. These States expressed a general concern that the Vigo County emissions, in combination with the SO_2 emissions from other midwest sources, will have a serious, detrimental impact on interstate air pollution levels. They also made the following additional, specific comments: 1) Approval of the

Vigo County strategy will result in increased SO_2 and TSP emissions. This will adversely affect the pollution levels in other states and thus an EPA approval would violate sections 110(a)(2)(E) and 126 of the CAA. 2) EPA and Indiana inappropriately utilized only short-range air pollution dispersion models, which are incapable of assessing long-range pollutant transport. 3) EPA should have modeled the SO_2 emissions for their effect on the particulate matter levels in other States. 4) Approval of the Vigo County plan will result in increased downwind sulfate concentrations. 5) If EPA does not disapprove the Vigo County plan, it must defer its decision until the completion of certain proceedings now pending under Section 126 of the CAA.

Response: EPA's review and approval of the Indiana SO_2 SIP revision will not result in increased SO_2 and TSP levels, and thus is consistent with Sections 110(a)(2)(E) and 126 for several reasons. Because the emission limitations for Vigo County generally reflect status quo emissions or restrictions, no significant increase in SO_2 or TSP emissions and, consequently, no increase in net impact is expected. In addition, the J.I. Case and Anaconda Aluminum stack height changes are only minor increases up to 30 meters (m). EPA has determined that stack heights of up to 65 m may automatically be credited to most significant sources of SO_2 without violating section 123 of the CAA (February 8, 1982, 47 FR 5864). These two increases are well below EPA's de minimis stack height of 65 m. Further, because the PSI stack height change is accompanied by a derating requirement and a reduction from maximum status quo emissions, the expected net effect of today's rulemaking is to reduce PSI's actual impacts.

With regard to comments on the use of EPA reference models, EPA has not yet established any techniques which evaluate impacts beyond 50 kilometers (km) from a source. Consequently, contrary to the commentor's claim, there are no EPA-approved regulatory tools currently available to assess long-range impacts.

Pursuant to Section 110(a)(2)(E), EPA has reviewed this action for potential interstate impacts to the extent that EPA's modeling allows. The only State within 50 km of Vigo County is Illinois. There are no SO_2 nonattainment areas in Illinois within 50 km. There is only one county in Illinois within 50 km where the baseline date has been triggered. As discussed below, there are no problems concerning PSD increment consumption or violations of the NAAQS in Illinois.

The largest SO_2 source in Vigo County is the PSI Wabash River Plant, located about 13.5 km east of the Illinois State line. Modeling predicts the highest SO_2 concentrations to occur in the vicinity of the Wabash River Plant. The highest, second high 24-hour modeled concentration was 362 $\mu g/m^3$ and occurred at a receptor located 3 km east of the Plant. West of the Plant (towards Illinois), the high, second high impact was 323 $\mu g/m^3$, located 1.5 km WNW of the Plant and 12.5 km east of the State line. The predicted concentrations west of this receptor decrease to approximately 200 $\mu g/m^3$ within 10 km of the State line. Furthermore, a conservative screening analysis demonstrated that maximum concentrations in Illinois due to Vigo County sources are less than 90 $\mu g/m^3$. Because the concentrations are decreasing away from Vigo County in Illinois and concentrations due to Vigo County sources in Illinois are well below the NAAQS, no violations due to Vigo County sources are expected to occur in Illinois.

The closest major source in Illinois to the Indiana Border is outside the modeling range of 50 km. Consequently, EPA was unable to consider possible source interaction in Illinois. However, beyond 50 km the Illinois sources would almost certainly contribute far more than Indiana sources to ambient SO_2 concentrations.

EPA has also considered under section 110(a)(2)(E) whether revision of the emission limits for the named sources interferes with measures "required to be included in the applicable implementation plan for any other State under Part C to prevent significant deterioration of air quality * * *" A conservative screening analysis demonstrated that the net effect of the Vigo County plan would be to reduce PSI's actual impact on the Illinois PSD area. Therefore, EPA has concluded that the revised SIP will not interfere with Illinois' ability to prevent significant deterioration of its air quality.

With respect to Connecticut's claim that EPA should have modeled the SO_2 emissions for their effect on the particulate matter levels in other States, EPA's currently approved models are not capable of such an analysis. EPA models estimate ground-level SO_2 concentrations caused by a plant's SO_2 emissions. Similarly, EPA models estimate ground-level particulate concentrations caused by a source's particulate matter emissions. Although models capable of estimating the impact of SO_2 emissions on ground-level particulate matter concentrations have been developed by researchers, EPA is still evaluating their predictive accuracy as part of an overall revision to its Modeling Guidelines. Application of these models at this time, therefore, is premature. For the purposes of section 110(a)(2)(E), EPA notes that the commentor has not submitted any information which demonstrates that the SO_2 emissions from the Vigo County sources contribute or impact particulate pollution in other States.

The sulfate question raised by the commentors is a complex one. To date, EPA has not established a national ambient air quality standard for sulfates. However, the sulfate issue is being evaluated as part of EPA's current review, under section 109(d)(1) of the CAA, 42 U.S.C. 7409(d)(1), of the criteria and national standards for sulfur oxides and particulate matter (see "Second External Review Draft Air Quality Criteria for Particulate Matter and Sulfur Qxides," and notice announcing comment period on draft, 46 FR 15569 (March 6, 1981)). At present, in the absence of a national standard for sulfates, EPA need not consider the impact of the Indiana SO_2 plan on sulfate levels.

On June 18 and 19, 1981, as a result of petitions filed by the States of New York and Pennsylvania under section 126 of the CAA, EPA held a hearing in Washington, D.C. to consider the possible interstate impact of a number of proposed and final SO_2 revisions for sources located in Indiana, Tennessee, Ohio, and West Virginia. (Docket No. A–81–9) To the extent that New York and Connecticut's comments to the Vigo County proposal relate to the same aggregate air quality impact issues as in the section 126 action, they will be addressed in the Agency's Section 126 determination. EPA is not required to delay a plan revision until it reaches a decision on a Section 126 petition. *Connecticut* vs *EPA*, 902 F 2d 656 (2d Cir. 1981). In light of the congressional mandate to act expeditiously under Part D of the Act, EPA does not believe that it would be appropriate to withhold the Vigo County rulemaking until EPA acts on the Section 126 petitions. At the time the Agency makes such a determination and to the extent necessary, EPA can and will reevaluate the adequacy of the Vigo County plan.

Based on its review, EPA approves, in part, the revised Vigo County SO_2 strategy as a revision to the SIP. The compliance dates contained in the current federally approved APC–13

(May 14, 1973) will continue to apply to those sources for which the revised SO_2 strategy contains less stringent emission limitations. In those cases where the revised SO_2 strategy requires more stringent emission limitations, the compliance timetables listed in Section 6 of 325 IAC Article 7 are approved in Vigo County. Section 6 requires final compliance by December 31, 1981. Sources subject to the plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements until such time as they come into compliance with the new Part D plan requirements.

EPA is presently taking no action on 30-day averaging. This will not affect approvability of the Vigo County strategy as a whole, because 325 IAC Article 7 contains an approvable compliance method, stack testing in accordance with 40 CFR Part 60, Appendix A Method 6. Article 7 also permits the Indiana Air Pollution Control Board to approve alternate compliance methods. Any such methods approved by the Board must be submitted to EPA for its action.

EPA has determined that good cause exists for making these revisions immediately effective and deviating from the requirement of 5 U.S.C. 553(d) (the Administrative Procedures Act) that substantive rules be published thirty days before their effective date. By making this final rulemaking immediately effective, some of the restrictions on industrial growth contained in Section 110(a)(2)(I) of the Clean Air Act will be lifted from the State of Indiana. These restrictions are imposed for failure to have a SIP which meets the requirements of Part D after the final date for SIP approval specified in the Act. EPA has determined that the Vigo County SO_2 SIP on the whole, meets the requirements of Part D. Therefore, it would be contrary to the public interest to continue the restrictions on industrial growth for thirty days after the publication of this notice.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It will impose no new requirements.

This regulation was exempted from review by the Office of Management and Budget under Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110 and 172, Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: April 30, 1982.

Anne M. Gorsuch,

Administrator.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, Subpart P—Indiana is amended as follows:

1. Section 52.770(c) is amended by adding subparagraph (31) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(31) On February 11, 1980, Indiana submitted a revised sulfur dioxide strategy for Vigo County. Technical information was submitted on December 10, 1979 and on May 30, 1980. On October 6, 1980, the State submitted a recodified version of the Vigo County Regulations, 325 IAC Article 7, which was promulgated by the State on August 27, 1980. EPA is not taking action on the 30-day averaging compliance method contained in 325 IAC 7-1-3 as it applies to Vigo County.

2. Section 52.773 is amended by revising paragraph (b) as follows:

§ 52.773 Approval status.

* * * * *

(b) The Administrator finds that the SO_2 strategies for Lake, LaPorte, Marion and Vigo Counties satisfy all requirements of Part D, Title I of the Clean Air Act as amended in 1977, except as noted below.

* * * * *

[FR Doc. 82-13052 Filed 5-12-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 52 and 81

[A-5-FRL-2063-6]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA is approving the State of Ohio's sulfur dioxide (SO_2) emission limitations for portions of the following counties: Athens County: Columbus and Southern Ohio Electric (C&SOE)—Poston, Hamilton County: DuPont—Fort Hill, Montgomery County: Dayton Power and Light-Tait and Hutchings, Pike County: Southern Wood Piedmont, Seneca County: Union Carbide Fostoria Plant, and Wayne County: Orrville Municipal Power Plant. Additionally, EPA is redefining the SO_2 attainment area for Hamilton County into two distinct attainment areas. These revisions are based on the request and the supporting data submitted by the State of Ohio.

EFFECTIVE DATE: This final rulemaking becomes effective on June 14, 1982.

ADDRESSES: Copies of the Docket #5A-80-3 are on file for copying and inspection during normal business hours at the following address. (It is recommended that you telephone the contact person given below before visiting the Region V office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, 11th Floor, Chicago, Illinois 60604

Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460

Copies of the Ohio Administrative Code (OAC) Rules for this SIP revision are available for inspection in the Docket #5A-80-3 cited above and at:

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460

Ohio Environmental Protection Agency, Office of Air Pollution Control Division of Authorization and Compliance, 361 East Broad Street, 6th Floor, Columbus, Ohio 43215

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio at 886-6088.

SUPPLEMENTARY INFORMATION: On November 13, 1981 (46 FR 55994), EPA proposed to approve the State of Ohio's sulfur dioxide emission limitations for the following sources: Athens County: Columbus and Southern Ohio Electric (C&SOE)—Poston, Hamilton County:

DuPont—Fort Hill, Montgomery County: Dayton Power and Light—Tait and Hutchings, Pike County: Southern Wood Piedmont, Seneca County: Union Carbide Fostoria Plant, and Wayne County: Orrville Municipal Power Plant. Additionally, EPA proposed to redefine the SO_2 attainment area for Hamilton County into two distinct attainment areas. The purpose of the redefinition is to restrict the size of the area that is affected by a previously established baseline date, pursuant to the Prevention of Significant Deterioration (PSD) Regulations (45 FR 52676) and section 107(d)(5) of the Clean Air Act.

Public Comment

EPA received three letters containing comments from the State of New York, the State of Connecticut and one affected industry.

Comment: EPA has failed to apply the best available modeling tools to assess the interstate impact of the Poston Power Plant.

Response: There are no models or modeling techniques approved by EPA that are currently available to assess long range impacts for regulatory purposes. EPA reference models, which are only valid to 50 kilometers (km) from the source, were used to evaluate the Poston plant.

Comment: EPA has failed to comply with section 110(a)(2)(E) and 126 of the Clean Air Act (CAA) in approving the Poston SIP revision.

Response: Pursuant to Sections 110(a)(2)(E) and 126 of the CAA, the EPA has reviewed its action for potential interstate impacts. The only state within 50 km of Poston is West Virginia. There are no SO_2 Non-attainment areas in West Virginia within 50 km of Poston. The Poston revision also causes no problem with PSD increment consumption since the baseline date has not been triggered in Athens County, Ohio or any other nearby attainment counties in which Poston may have a significant annual impact.

Specifically, the Poston Plant is 45 km from West Virginia in the southeastern modeling quadrant. The emission modeling data predict a 3-hour concentration of 400 ug/m^3 at a distance of 12.5 km. The 3-hour concentrations decrease rapidly and are already well below the ambient standard 32.5 km from the West Virginia border. Consequently, no violations due to the Poston Plant are expected to occur in West Virginia.

In addition to Poston, EPA also reviewed the other six sources included in this rulemaking notice for potential interstate impacts. For Southern Wood Piedmont, Union Carbide, Dayton Power & Light—Tait, and the Orrville Municipal Power Plant, the Ohio regulations represent either no change or a reduction in current allowable SO_2 emissions. Accordingly, the interstate impact from these four sources will not increase as a result of this revision.

For Dayton Power and Light—Hutchings, the Ohio regulations represent a net increase in allowable emissions. Indiana is the only State within 50 km of Hutchings. There are no Indiana PSD areas within 50 km. There is one Indiana SO_2 nonattainment area located 45 km away. An EPA reference screening analysis demonstrated, however, that the revision will not significantly increase Hutchings' impact in the Indiana nonattainment area.

For DuPont-Fort Hill, the Ohio regulations represent an increase in allowable emissions. Indiana and Kentucky are the only States within 50 km of DuPont. There are no Indiana PSD areas but there are some Kentucky PSD areas within 50 km. The revision will not consume any increment in Kentucky, however, since the Ohio SIP limit reflects DuPont's actual emissions during the Kentucky baseline year.

The DuPont revision will also not threaten the ambient standards in either Indiana or Kentucky. There are no SO_2 nonattainment areas in these two states within 50 km of DuPont. Furthermore, the Ohio EPA SIP modeling demonstrated that DuPont (and other southwest Hamilton County sources) will not cause any violations in Indiana or Kentucky. Therefore, EPA has determined the Ohio actions are consistent with section 110(a)(2)(E) and section 126.

Comment: The tall stack provisions of the Clean Air Act, as amended in 1977, were not properly applied to the Poston Power Plant.

Response: EPA maintains that the modeled stack height credits for the Poston stacks were appropriate. Review confirms the credits were based on the formula specified by current regulation (proposed Jan. 12, 1979 (44 FR 2610) and October 7, 1981 (46 FR 49814); finalized February 8, 1982 (47 FR 5864)). EPA maintains that the formula for determining the modeled stack height credit is consistent with section 123 of the Clean Air Act.

Comment: The EPA should have modeled the Poston SO_2 emissions for their effect on particulate matter levels in other states.

Response: EPA's current approved models are not capable of analyzing the effect of SO_2 emissions on particulate levels. These actions only affect SO_2 emission limits and the modeling results only characterize ground level SO_2 concentrations. Models capable of analyzing particulate impacts on SO_2 emissions are being developed, but their predictive accuracy is still under evaluation. Application of these models at the time would therefore be premature.

Comment: EPA actions are wrongfully increasing sulfate concentrations in downwind states.

Response: At the present time, there are no national standards for sulfates that EPA is authorized to consider in evaluating the impact of the Ohio SO_2 plan. However, sulfates are being evaluated as a part of EPA's review for sulfur oxides and particulate matter, pursuant to section 109(d)(1) of the CAA. Reference can be made to EPA's proposed criteria notice published March 6, 1981 at 46 FR 15569.

Comment: EPA has failed to develop a record on the interstate impacts or respond to earlier comments by various states.

Response: As set forth above, EPA has developed an adequate record on interstate impacts. EPA has also considered the previous comments submitted by various states in its development of this final action. Hearings on the specific topic of aggregate impact of midwestern SO_2 sources on acid rain and interstate transport have been held June 18–19, 1981 in Washington, D.C., pursuant to a section 126 petition filed by New York and Pennsylvania (No. A–10–09). EPA will, if necessary, reevaluate the adequacy of this SIP revision when the findings on New York's section 126 petition become available.

Comment: Is the redefinition of Hamilton County attainment areas being done to avoid analysis of PSD increment consumption?

Response: The redefinition of the Hamilton County attainment areas is appropriate and fully approvable. The redefinition of the areas obviated the need for PSD analysis and was authorized to more accurately reflect the true extent of the baseline area consistent with the current PSD regulations.

Comment: Why do the urban model dispersion rates produce higher concentrations in Montgomery County than the rural ones?

Response: There are several differences between EPA's urban and rural models, but one of the most significant is different dispersion coefficients. With the urban model there is both more horizontal and vertical dispersion. The difference between the

urban and rural vertical dispersion rates is greater than the difference between the two horizontal dispersion rates. This leads to greater maximum impacts with the urban model since the plume is predicted to reach the ground more quickly.

Comment: One commentor asked for further explanation of the status quo emission limit for Union Carbide.

Response: As discussed in the Technical Support Document for the Union Carbide SIP revision (July 31, 1981), OEPA intended to set a status quo limit for Union Carbide. Due to erroneous information, however, a much tighter limit was incorrectly set. Upon receipt of corrected data, OEPA performed a reference modeling analysis to demonstrate that the true status quo emission level would protect the NAAQS. Based on this attainment demonstration, EPA proposed to approve the revised emission limit for Union Carbide.

Comment: One commentor expressed displeasure with the lack of detail in EPA's Notice of Proposed Rulemaking.

Response: EPA maintains that the **Federal Register** notice provided an adequate summary of the proposed rulemaking actions and their technical bases. In addition, more detailed technical information relating to EPA rulemaking action was found in associated technical support documents which were available to the public, as mentioned in the November 13, 1981 notice. Furthermore, a contact person is provided in each notice in order to provide any additional information or answer any questions the public may have.

Final Determination

Based on EPA's review of the technical support data and the public comments received, EPA has determined that approval of the State of Ohio's emission limitations for the counties listed below will not jeopardize the attainment and maintenance of the National Ambient Air Quality Standards for sulfur dioxide nor violate Section 110(a)(2)(E) of the Act. Therefore, EPA today takes final action to approve the emission limitations for the following portions of the Ohio SO_2 plan: Athens County (Columbus and Southern Ohio Electric (C&SOE)—Poston), Hamilton County (DuPont—Fort Hill), Montgomery County (Dayton Power and Light—Tait and Hutchings), Pike County (Southern Wood Piedmont), Seneca County (Union Carbide Fostoria Plant). Additionally, EPA approves the redefinition of the SO_2 attainment area for Hamilton County into two distinct attainment areas.

The measures proposed for promulgation today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations or if it chooses, challenging the new regulations. In some instances, the present emission control regulations contained in the federally-approved SIP are different from the regulations currently being enforced by the State. In these situations, the present federally-approved SIP will remain applicable and enforceable until there is compliance with the newly promulgated and federally-approved regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability of the new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exception to this rule is in cases where there is a conflict between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new regulations. In these situations, the State may exempt a source from compliance with the pre-existing regulations. Any exemption granted will be reviewed and acted on by EPA.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It will impose no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation if promulgated is not Major because it merely approves regulations which are already effective in the State of Ohio.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110 and 172, Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: April 30, 1982.

Anne M. Gorsuch,

Administrator.

List of Subjects

40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Title 40 of the Code of Federal Regulations Chapter I, Part 52, and Part 81 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart KK—Ohio

1. Section 52.1870(c) is amended by revising subparagraph (25) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(25) The following information was submitted to USEPA regarding the Ohio Sulfur Dioxide Standards

(i) On February 12, 1980 the Director of the Ohio EPA submitted the Ohio Administrative Code (OAC) Rules 3745-18-01 to 3745-18-94, Sulfur Dioxide Standards adopted on November 14, 1979 effective December 28, 1979.

(ii) Ohio EPA sent technical support for the Ohio Sulfur Dioxide Standards on September 12, 1979, October 23, 1979, May 16, 1980, March 27, 1981, May 5, 1981, July 15, 1981 and September 24, 1981.

(iii) The following regulations were withdrawn by the Governor of Ohio on May 16, 1980: OAC Rules 3745-18-08(H), 3745-18-15(B), 3745-18-53(E), 3745-18-63(K), 3745-18-77(B) and 3745-18-90(C). These rules are applicable to the following plants: Cairo Chemical Corporation in Allen County, Crystal Tissue Company in Butler County, U.S. Steel Corporation, Lorain—Cuyahoga Works in Lorain County, Bergstrom

Paper Company in Montgomery County, Mead Corporation in Ross County and Shell Chemical Company in Washington, County.

(iv) The following regulations were withdrawn by the Governor of Ohio on December 19, 1980 only as it applies to the B.F. Goodrich Company, Avon Lake Chemical Plant in Lorain County; OAC 3745-18-53(A). These regulations are still applicable to other facilities in Lorain County.

(v) The following regulations were withdrawn by the Governor of Ohio on February 13, 1981; OAC Rules 3745-18-49(J) which is applicable to the Ohio Rubber Company in Lake County and 3745-18-80(D) which is applicable to the Union Carbide Corporation in Seneca County.

(vi) The Governor of Ohio submitted a revised OAC Rule 3745-18-80(D) which is applicable to the Union Carbide Corporation in Seneca County on April 30, 1981.

2. Section 52.1881(a) (4) and (8) is amended as follows:

§ 52.1881 Control strategy: Sulfur dioxide (sulfur dioxide).

(a) * * *

(4) Approval—USEPA approves the sulfur dioxide emission limits for the following counties: * * * Athens County, Auglaize County, * * * Hamilton County, Hancock County * * * Montgomery County (except Bergstrom Paper and Miami Paper), * * * Pike County (except Portsmouth Gaseous Diffusion Plant), Wayne County, Williams County * * *

(8) No Action—USEPA is neither approving nor disapproving the emission limitations for the following counties on sources pending further review: * * * Allen County (Cairo Chemical), Butler County, * * * Gallia County (Ohio Valley Electric Company—Kyger Creek, and Ohio Power—Gavin), Lake County * * * Montgomery County (Bergstrom Paper and Miami Paper), * * * Pike County (Portsmouth Gaseous Diffusion Plant), * * * Washington County (Shell Chemical Company and Ohio Power—Muskingum River), and Wood County * * *

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. Section 81.336 is amended by adding reference to Hamilton County as follows:

§ 81.336 Ohio.

OHIO—SULFUR DIOXIDE

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * * * * * *				
Hamilton:				
The City of Cincinnati bounded on the west by I75 and U.S. Route 127, and on the south by the Ohio and Little Miami Rivers; the Cities of Norwood, Fairfax Silverton, Golf Manor, Amberly, Deer Park, Arlington Heights, Elwood Place, and St. Bernard.			*	
The remainder of Hamilton County			*	
* * * * * * *				

[FR Doc. 82-13061 Filed 5-12-82; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. E-79]

Adjustments; Shipping-Type Discrepancies in GSA or DOD Shipments

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation raises the minimum line item dollar values required for shipping-type discrepancies in GSA or DOD shipments to $50 for reporting and $100 for billing adjustments. This change is necessary because the costs associated with processing discrepancies have increased significantly.

DATES: Effective date: May 13, 1982.

Expiration date: April 22, 1983.

Comments due on or before: October 29, 1982.

ADDRESS: Comments should be addressed to: General Services Administration (FSR), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Mr. James W. Jeremiah, Director, Office of Requisition Processing and Control (703-557-0400).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net cost to society.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter E to read as follows:

General Services Administration,
Washington, D.C. 20405, April 14, 1982.

Federal Property Management Regulations; Temporary Regulation E-79

To: Heads of Federal agencies.

Subject: Adjustments.

1. *Purpose.* This temporary regulation raises the minimum line item dollar values required for reporting shipping-type discrepancies in General Services Administration (GSA) or Department of Defense (DOD) shipments and for the processing of billing adjustments.

2. *Effective date.* This regulations is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires April 22, 1983 unless sooner revised or superseded.

4. *Applicability.* The provisions of this regulation apply to all civilian agencies authorized to requisition from GSA and DOD sources.

5. *Background.* The costs associated with reporting and processing discrepancies have increased significantly since $25 was established as the cutoff point for reporting shipping and transportation-type discrepancies. In addition, DOD has raised the reporting requirement for shipping-type (item) and packaging discrepancies to values of more than $50, and set the minimum for billing adjustments at $100. Since these dollar criteria apply to net gains as well as net losses, the impact on agencies should be minimal in terms of overall adjustment dollars, but significant in terms of staff hour savings. Accordingly, a decision has been made to increase minimum line item dollar values in Subpart 101-26.8. Reporting requirements are set lower than adjustment levels to allow supply sources to accumulate quality of service records and to take remedial action as appropriate.

6. *Action required.* a. FPMR 101-26.803-2, Adjustments, is amended to read:

GSA and DOD will adjust billings whenever the difference involved, resulting from over or under charges or discrepancies or deficiencies in shipments or material, exceeds $100 per line item on a bill submitted in accordance with the provisions of this Subpart 101–26.8 and the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings.

b. GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101–26.8) is changed to read:

(1) Chapter 3–5a(1): When the value of the discrepant material exceeds $50 per requisition line item when:

(2) Chapter 5–10a(1) and (2): (1) When discrepancy reports (SF 361, 363, 364, or 368) are involved, the DOD billing office will review and investigate the reported discrepancy and forward a response to the reporting activity and/or ultimate consignee indicating whether a billing adjustment will or will not be authorized. Adjustments will not be processed when the loss or gain involved is $100 or less per line item billed (detail billing card). Billed offices shall withhold submission of requests for billing adjustments (FAE cards) until 60 calendar days after receipt of the reply to the discrepancy report advising that a billing adjustment is being processed. Losses or gains of $100 or less shall be absorbed by the billed activity. (The dollar limitation in requesting or obtaining billing adjustments does not alter the requirement for the preparation and submission of a discrepancy report as prescribed in chapters 2, 3, or 4.)

(2) When discrepancy reports are not involved, e.g., billing errors, request should not be submitted when the amount of the over or under billing is $100 or less on a line item billed except for advice codes 019, 034, and 041. (Losses or gains shall be absorbed by the billed activity.) For advice code 034 (material received but billing not received), a request for billing should not be submitted prior to 60 calendar days after receipt of the material or a billing.

(3) Chapter 5–22a: a. *General.* Adjustments in billings should not be requested and will not be made whenever the amount involved is over and under charges or the value of the discrepancy or deficiency involved represents an amount of $100 or less on any line item on a bill. This is not to be construed to eliminate billings and payments for requisitioned items of $100 or less.

7. *Agency comments.* Comments concerning the effect or impact of this regulation on agency operations or programs should be submitted to the General Services Administration (FSR), Washington, DC 20406, no later than March 31, 1982, for consideration and possible incorporation into a permanent regulation.

8. *Effect on other directives.* This temporary regulation amends FPMR 101–26.803–2 by increasing the minimum value required for a billing adjustment from $25 to $100.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82–13076 Filed 5–12–82; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6242

[OR–20220]

Oregon; Partial Revocation of Public Water Reserve No. 48

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive order creating Public Water Reserve No. 48. This action will restore 40 acres to full operation of the public land laws generally, including nonmetalliferous mining. All lands affected by this order have been and will remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of February 27, 1917, which withdrew certain lands for public water reserve purposes, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

T. 37 S., R. 11 E.,
Sec. 27, NE¼SW¼.
The area described contains 40 acres in Klamath County.

2. At 10 a.m. on June 11, 1982, the land will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 11, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on June 11, 1982, the land will be open to nonmetalliferous mineral location under the United States mining laws. The land has been and will remain open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 6, 1982.

[FR Doc. 82–13079 Filed 5–12–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6243

[C–13275]

Colorado; Public Land Order No. 6103, Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct a typographical error in a land description contained in Public Land Order No. 6103 of January 28, 1982.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303–837–2535.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The description of a parcel of land in Public Land Order No. 6103 of January 28, 1982, as published in FR Doc. 82–3064 appearing on page 5417 in the issue of Friday, February 5, 1982, in the first column under T. 19 S., R. 71 W., line 2 reads "sec. 2, S¼." It is hereby corrected to read "sec. 2, S½."

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 6, 1982.

[FR Doc. 82–13105 Filed 5–12–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6244

[A–023002]

Alaska; Withdrawal of Lands for the Department of the Army

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 3,340 acres of public land from operation of the surface land and mining laws. The land has been and will remain open for mineral leasing. The Department of the Army will continue to use the land at Fort Richardson, Alaska for cold weather survival and infantry tactical training purposes for a period of twenty years.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Beau McClure, Washington, D.C. Office, 202–343–6511 or Robert E. Sorenson, Bureau of Land Management, 701 C. Street, Box 13, Anchorage, Alaska 99513.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described Lands are withdrawn from settlement, sale, location, entry selection, or other disposal under the public land laws, including the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, the Alaska Statehood Act, 72 Stat. 339, and the mining laws, 30 U.S.C. Ch. 2, but not the mineral leasing laws, and are reserved for use by the Department of the Army for the Fort Richardson-Davis Range:

Seward Meridian

T. 12 N., R. 1 W.,
Sec. 6, W½;
Sec. 7, W½;
Sec. 18, N½NW¼, N½S½NW¼.
T. 12 N., R. 2 W.,
Secs. 1 and 2;
Sec. 3, N½NE¼, SE¼NE¼;
Sec. 11, NE¼, NE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 12;
Sec. 13, N½N½, N½S½NE¼, N½SE¼ NW¼.

The area described aggregates approximately 3,340 acres near Anchorage, Alaska.

2. The Department of the Army shall control and manage off road vehicle use to minimize and prevent disturbance to fragile slopes and soils.

3. The Department of the Army shall not allow further unexploded ordance contamination. Prior to returning the lands to public land status, the lands shall be made safe for nonmilitary use.

4. The Department of the Army has the authority and responsibility for management of lands under their jurisdiction for other than military uses. This authority will be used in carrying out all surface management activities. The authority and responsibility for mineral leasing shall be retained by the Department of the Interior. Any mineral leasing shall be subject to concurrence of the Secretary of the Army or his designee.

5. This withdrawal will not affect or alter any existing agreements, memorandum of understanding or other cooperative agreements relating to existing land use, management plans, or cooperative projects.

6. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 6, 1982.

[FR Doc. 82-13078 Filed 5-12-82; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-176; Amdt. Nos. 173-152]

Specification and Usage Requirements for 3AL Seamless, Aluminum Cylinders; Correction

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects final rule (46 FR 62452, December 24, 1981) and correction document (47 FR 13816) relating to new aluminum cylinders which are designated DOT specification 3AL. This action is necessary to correct editorial and typographical errors contained in § 173.23(c).

EFFECTIVE DATE: July 2, 1982. However, shipments may be prepared, offered for transportation, and transported in accordance with these amendments beginning April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur Mallen, Chief, Technical Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202–755–4906).

In consideration of the foregoing, the following corrections are made in FR Docket No. 82–8405 appearing at page 13816 in the issue of April 1, 1982.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. On page 13817, § 173.23(c), the fourth and fifth lines are corrected to read as follows:

§ 173.23 Previously authorized packaging.

(c) * * * DOT exemption E6498, E7042, E7446, E7477, E8107, E8364, or E8422, * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document (a) will not result in a "major rule" under the terms of Executive Order 12291; (b) is not a significant regulation under DOT's regulatory policy and procedures (44 FR 11034); and (c) does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and an environmental assessment are available for review in the docket.

Issued in Washington, D.C., on May 6, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-13018 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 10)]

Rail General Exemption Authority—Hops

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission exercises its authority under 49 U.S.C. 10505 to exempt hops (STCC No. 01–192) from regulation. The exemption will permit rail carriers to compete more effectively with motor carriers for this traffic. The exemption was requested by the Union Pacific Railroad Company and the Burlington Northern Railroad Company.

EFFECTIVE DATE: The rule adopted here will become effective on June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Donald Shaw (202) 275–7656.

SUPPLEMENTARY INFORMATION: In the notice instituting this proceeding, served February 8, 1982 (47 FR 5912, February 9, 1982), we proposed, under authority of 49 U.S.C. 10505 as amended by section 213 of the Staggers Rail Act of 1980, Pub. L. 96–448, to exempt hops (STCC No. 01–192) from regulation. The proposed exemption was requested by the Union Pacific Railroad Company (UP) and the Burlington Northern Railroad Company (BN).

The Miller Brewing Company, Pabst Brewing Company, Pfizer, Inc., and the United States Brewers Association, Inc. (USBA) [1] have filed comments supporting the exemption. There is no opposition to it. The UP and BN have submitted a joint letter stating that they have no additional comments to add to the facts stated in their petition

[1] USBA also requests that "hops pellets (STCC-01–192–10)" be specifically exempted in this proceeding. For interpretation of this exemption, STCC-01–192 includes hops pellets.

initiating the proceeding, and that those facts, as supplemented by the observations made in our prior notice, amply justify the exemption of hops. We think the evidence presented in the railroads' petition and the other parties' comments indicate that exemption is warranted.

49 U.S.C. 10505 authorizes the Commission to exempt certain traffic from regulation when: (1) Regulation is not necessary to carry out the transportation policy stated in 49 U.S.C. 10101a and (2) either the service is of limited scope or abuses of market power are unlikely to occur. All of these criteria are met.

Important parts of the transportation policy stated in section 10101a are the policies to allow, to the maximum extent possible, competition to establish reasonable rates for rail transportation, to minimize the need for Federal regulatory control over the rail transportation system, and to ensure and promote effective competition between rail carriers and other modes (section 10101a (1), (2), (4), and (5)). The comments have not only demonstrated that regulation is unnecessary to carry out the transportation policy, but that regulation may hamper the furtherance of this policy. The UP and BN have explained that hop transportation by motor vehicle is unregulated. The railroads have maintained that they do not have the flexibility under regulation to adjust rates to compete effectively with unregulated motor carriers. All the other parties' comments indicate that the railroads' statement is correct. The parties agree that the timing of a rate publication is very important. They state that, although railroads are responsive to requests for competitive rate adjustments, rate regulation prevents them from adjusting rates to meet their unregulated motor carrier competition in a timely manner. The exemption will alleviate this problem, permitting rail carriers to respond to market forces as quickly as motor carriers, and enhancing intermodal competition. Thus, the exemption will further the transportation policy of section 10101a.

The railroads' submission demonstrates that the service is of limited scope. The tonnages are low (37,726 tons in 1980), and the production area is limited (4 states: Oregon, Idaho, Washington, and California).

In addition, abuses of market power are very unlikely to occur. As stated in our prior notice, the rail market share has been declining (from 38 percent in 1971 to 28 percent in 1980), and hops appear easily divertable to motor carriage, since they are moved in 1-car lots (an average of 25.5 tons). The parties' comments also support the view that hops are easily divertable to motor carriage. Miller Brewing Company, for example, states that, although it once received 100 percent of its hops by rail, it presently receives 100 percent of its hops by exempt truck. Pabst Brewing Company maintains that many motor carriers are using hops as a backhaul and are willing to be very competitive in order to obtain this traffic.

PART 1039—CONTRACTS AND EXEMPTIONS

§ 1039.11 [Amended]

Accordingly, 49 CFR 1039.11 is amended by adding the following to the list of exempt commodities between

01	143...Peanuts and				
01	194...Potatoes, sweet:				
*	*	*	*	*	
01	192.....Hops.				
*	*	*	*	*	

This action does not significantly affect either the quality of the human environment, conservation of energy resources.

List of Subjects in 49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Railroads.

(49 U.S.C. 10505, 5 U.S.C. 553)

Dated: May 6, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, and Andre.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-13107 Filed 5-12-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 93
Thursday, May 13, 1982

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. AO F&V 352-A4]

Olives Grown in California; Recommended Decision and Opportunity to File Written Exceptions to Proposed Further Amendment of the Marketing Agreement and Marketing Order (Partial)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written exceptions on the proposed amendment of the olive marketing agreement and order program. The proposed amendment would: Modify grade and size regulations under the order; change the definitions of crop year and fiscal year; change the name, add a public member to, and modify other procedures of the Olive Administrative Committee; and make minor changes in the operation of the marketing order. The intent of the proposed changes is to improve the effectiveness of the program.

DATE: Written exceptions to this recommended decision must be filed by May 28, 1982.

ADDRESSES: Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written exceptions should be submitted, and they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, Fruit and Vegetable Division, Agriculture Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-5975.

SUPPLEMENTARY INFORMATION: Prior documents in the proceeding Notice of Hearing, issued November 13, 1981, and published in the November 18, 1981 issue of the **Federal Register** (46 FR 56620).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code, and therefore is not subject to the requirements of Executive Order 12291.

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

It has been determined that a comment period of less than 60 days if warranted. The proposed amendment, if adopted, should be effective no later than August 1, 1982. That date would represent the first day of the crop year as proposed to be revised herein, and procedures and handlers need to know of any changes as soon as possible so they can plan their operations accordingly.

List of Subjects in 7 CFR Part 932

Marketing agreements and orders, Olives, California.

Preliminary Statement: Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed further amendment of the marketing agreement and Order No. 932, regulating the handling of olives grown in California, and of the opportunity to file written exceptions thereto. Copies of this decision may be obtained from the Hearing Clerk or Richard P. VanDiest, AMS, F&V, 1130 "O" Street, Room 3114, Fresno, California 93721, Telephone (209) 487-5175.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et. seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900).

This proposed amendment was formulated on the record of a public hearing held in Fresno, California, on December 8 and 9, 1981. The hearing notice was published in the November 18, 1981 issue of the **Federal Register** (46 FR 56620). That notice contained proposals submitted by the Olive Administrative Committee and the Fruit and Vegetable Division, AMS.

Material Issues: The material issues of record are as follows:

(1) Change the name of the administrative agency to California Olive Committee.

(2) Change the crop year to the 12-month period ending on July 31 of each year and the fiscal year to the 12-Month period ending on December 31 of each year.

(3) Include "segmented (wedged)" as a style of limited use olives.

(4) Provide for addition of a public member to the committee.

(5) Clarify nomination procedures for persons to fill producer member positions on the committee, including authority to conduct nominations by mail.

(6) Broaden the authority for alternate members' attendance at meetings and authorize payment of expenses incurred by alternate members of the committee under specified circumstances.

(7) Authorize changes in committee voting requirements when voting is by mail.

(8) Authorize interest and late payment charges on overdue assessments.

(9) Change reporting procedures on research projects.

(10) Base minimum size requirements for natural condition olives and grade and size requirements for canned olives on the current U.S. Standards for Grades of Canned Ripe Olives as may be amended or modified.

(11) Provide a procedure for certifying olives as to size at the incoming level to meet outgoing regulation requirements.

(12) Make conforming changes.

This is a partial recommended decision. The issue of authorizing handler assessment credit for brand advertising will be dealt with in a subsequent decision.

Findings and Conclusions: The following findings and conclusions on the material issues are based on the record of the hearing:

(1) The definition of "committee" in § 932.18 should be amended to change the name of the agency which locally administers the order from the Olive Administrative Committee to California Olive Committee. All of the olives regulated under the order , and for practical purposes, all of the olives

grown in the United States, are grown in the State of California. It is appropriate that this fact be reflected in the name of the committee. The name of California Olive Committee would more clearly identify the agency and the growing or regulated area. This should be helpful in committee activities related to advertising and public relations work.

(2) The order defines the terms crop year and fiscal year as that period beginning September 1 of any given year and ending August 31 of the following year. At the time the order was promulgated, this definition of crop year and fiscal year identified the period of time in which most of a season's olive crop was harvested and marketed. Harvesting began during September and continued through November of each year. Most olives were canned and marketed from December to August of the same crop year in which they were harvested.

Subsequent changes in cultural practices and the introduction of massive irrigation projects into the southwestern San Joaquin Valley of California have resulted in a substantial increase in acreage of olive trees in that more southerly area. Prior to the development of the irrigation projects, most olives were grown in the eastern portion of the San Joaquin Valley, Due to different climatic and soil conditions in the southwestern San Joaquin Valley, olive harvesting now begins in August. In view of this, the definition of crop year should be changed to that period beginning August 1 of a given year and ending July 31 of the following year. However, it may be desirable in the future to establish a different crop year should harvesting, marketing or other practices for olives materially change. Therefore, authority should be included in § 932.19 to provide for such establishment subject to recommendation by the committee and approval by the Secretary.

The committee currently meets in August of each year, prior to harvest, to approve and recommend to the Secretary of Agriculture a budget and assessment rate for the subsequent fiscal year. Inasmuch as the assessment rate is applied to the regulated volume handled, substantial variation in assessment revenue may occur when the actual crop size varies significantly from the pre-harvest estimate. This complicates budgetary planning and implementation of the committee's market development program because the level of assessment income is uncertain at the time the budget is planned. In order to have the most accurate crop data available and to more closely correlate assessment revenue with expenses, the definition of fiscal year should be changed to that period beginning January 1 of a given year and ending December 31 of the same year, thus allowing recommendations for budget and assessment rates to be based on a known quantity of olives handled.

However, it may develop that for convenience of management, or for other good and sufficient reasons not now apparent, it may be desirable to establish a fiscal period other than the one ending December 31. Therefore, authority should be included in § 932.19(b) to provide for such establishment subject to approval by the Secretary pursuant to recommendation of the committee. Hence, it is concluded that fiscal period should be defined as hereinafter set forth to provide this flexibility.

As conforming changes, "crop year" should be changed to "fiscal year" in §§ 932.35(g), 932.35(h), 932.39(b), 932.40(a) and 932.45(d). "Fiscal year" should be changed to "crop year" in § 932.39. References to August 15 in §§ 932.35(g), 932.50 and 932.68(c) should be changed in accordance with the change in the definitions of crop year and fiscal year. Accordingly, in § 932.35(g) the phrase "not later than August 15" should be changed to "not later than December 15." This refers to the date by which the committee must submit to the Secretary its recommended budget of anticipated expenses and the proposed assessment rate for the fiscal year beginning January 1. In § 932.50 the phrase "not later than August 15 of each crop year", which sets the date by which the committee must hold its annual meeting for the purpose of formulating a marketing policy for the oncoming crop year, should be changed to "at least 14 days prior to the start of each crop year." In § 932.68(c) the reference to the date by which the Secretary must announce termination of the order, for such termination to be effective in the current crop year, should be changed from August 15 to July 15. Such dates and periods of time are comparable to those currently required in the order for such action to be taken.

(3) The order should be amended to include segmented (wedged) olives and to delete quartered and minced olives from the styles of limited use olives included in § 932.23a. Segmented olives are defined in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52, 46 FR 39563) as olives that are pitted and then cut lengthwise into three or more approximately equal parts. Thus, segmented style also includes olives cut into four equal parts, or quartered. The industry refers to segmented olives as wedged style olives and they are used primarily by the foodservice industry as pizza toppings and salad garnishes. This style of olive was introduced in 1972 and there has been increased acceptance and usage each year.

The order now authorizes the committee, with approval of the Secretary, to specify additional styles of limited use olives and establish requirements applicable to such styles. Under this authority, an administrative rule (§ 932.110) was promulgated specifying quartered and segmented olives as additional styles which could be produced from limited use size and larger olives. The proposed revision of § 932.23a makes no substantive change but merely includes the segmented (wedged) style in the basic provisions of the order among the other limited use styles. Since segmented style means the olive has been pitted and cut into three or more approximately equal parts, the term "quartered" is superfluous and is therefore not included in the recommended amendment. Section 932.23a currently lists chopped and minced styles among the styles for limited use. The U.S. Standard was amended to delete the term "minced", and minced and chopped styles were combined into one style of olives, identified as "chopped". Therefore, the term "minced" should be deleted from § 932.23a.

(4) The order should be amended, as hereinafter set forth in § 932.25, to provide that a public member and alternate public member may be added to the committee. Relative thereto, provision should be made for appropriate eligibility requirements and procedures for nominating persons to fill the public member position under the order. Provision should also be made in § 932.36 to increase by one the committee quorum requirement and to increase by one the number of votes required to decide on grade and size regulations to reflect the addition of a public member to the committee.

Such public member could be helpful in bringing the viewpoint of the general public into the committee's deliberations. Such a viewpoint could be valuable in planning, implementing, and evaluating the committee's market development plans. A public member should serve in the same capacity as any other member and thus would be able to initiate proposals to be considered by the committee, and vote on all committee actions. The public

member should not be a paid position such as a public consultant, but the public member should be reimbursed for expenses incurred in the performance of committee duties. A public member should not be engaged in the commercial production, marketing, buying, grading or processing of olives, nor should such member be an officer, director, member or employee of any firm engaged in those activities. This is not meant to preclude from the position someone who might have a few olive trees in their yard

Since all meetings of the committee are held in California, the public member should be a resident of that State to minimize travel and related expenses. In the event that the public member moves from the State of California or becomes financially involved in the olive industry, such member would become ineligible to serve and a replacement would be selected and nominated, as soon as possible, for the Secretary's approval and appointment. The terms of office of the public member and public member alternate, insofar as possible, should coincide with those of producer and handler members, that is, a two-year term beginning June 1 and ending on May 31 of odd numbered years.

Section 932.36 prescribes voting requirements and, among other things, requires at least five handler members and five producer members to be present to obtain a quorum. It also requires at least five affirmative votes by producer members and five affirmative votes by handler members to approve any recommendation to the Secretary relative to grade or size regulations. Since the public member is neither a producer nor a handler, the public member's vote should not be categorized into either group under § 932.36.

Hence, the requirements of that section with respect to quorum and voting requirements should continue to relate to grower and handler members as specified. However, when a public member is added to the committee, the quorum and voting requirements should increase by one to reflect the additional member. Therefore, in that event, the quorum requirement should be at least 11 members of whom at least 5 should be producer members and at least 5 should be handler members; and committee recommendations as to grade and size should require an affirmative vote of 11 members of whom at least 5 should be producer members and at least 5 should be handler members.

If the order is amended as proposed, the committee should, as soon as practicable, recommend appropriate rules and regulations which would define the procedures for nominating persons for the position of public member and alternate public member. Several methods were proposed at the hearing to identify and select potential candidates and determine their qualifications to serve in the position. For example, one method would involve a subcommittee interviewing prospective nominees and choosing several of the best qualified candidates. After reviewing the candidates' qualifications and the subcommittee's recommendations, the committee could present to the Secretary its recommendation for the public member and alternate public member. Other methods of identifying, selecting, and nominating candidates should also be considered by the committee. The committee should develop such rules and regulations as soon as possible after amendment proceedings are completed, with the objective of nominating a public member for the next term which begins June 1, 1983. In order to allow time for the Secretary to make such selection, the committee should submit the names of nominees for public member and alternate member prior to April 16 of any year in which nominations are made.

(5) The order requires that nominees to fill grower member positions on the committee shall be nominated at meetings of growers in each of the representative districts. At such meetings each grower entity may cast one vote for each member and alternate member nominee to be nominated from that district. Proponents expressed dissatisfaction concerning the lack of grower participation in nomination meetings and proposed that such participation could be encouraged if growers were permitted a vote by mail. It was contended that requiring growers to attend in person in some instances causes a hardship in that some growers must travel relatively long distances at their own expense. It was indicated that if suitable procedures could be worked out for obtaining the names of prospective grower nominees in each district, and presenting such to growers on a ballot to be returned by mail, one growers would participate. Proponents testified that grower meetings should be held in all districts. At these meetings, growers could propose candidates for the nomination recess. Other methods of proposing candidates could also be developed by the committee and recommended to the Secretary for adoption as an administrative rule. Allowing such a procedure to be developed as an administrative rule would permit necessary clarification and development of a workable procedure and also allow for further modification if deemed necessary by the committee.

For similar reasons, the committee would develop, also for adoption as an administrative rule, mail balloting procedures for nomination of producer and alternate producer members. One procedure could involve mailing ballots to all growers in a district. The names of all candidates for nomination would be on the ballot and producers would choose candidates for both the member and alternate member positions. Candidates, in order to be nominated, would have to receive a majority of the votes cast. If no candidates received such a majority the balloting procedure would have to be repeated. If for some reason such procedures for the development of a list of candidates for nomination and for mail balloting do not prove successful or desirable, the committee should have the option of holding nomination meetings for the purpose of obtaining producer member and alternate member nominees. It is therefore concluded that § 932.29 should be amended to authorize mail balloting by producers to secure nominees for producer member positions in the committee.

(6) Sections 932.30 and 932.37 should be amended to permit the committee, by majority vote, or the committee chairman to request one or more alternate members to attend any or all committee meetings, even though the respective member or members are in attendance at the same meeting, and to authorize the committee to pay expenses incurred by any or all alternate members in attending committee meetings or performing other committee duties when such is so requested.

The order does not now specifically provide for reimbursement of an alternate member's expenses incurred in attending committee meetings when the member for whom that person is an alternate attends the same meeting. This could prevent an alternate for providing valuable information to the committee. For example, alternates serve on subcommittees and, when the committee is considering a recommendation of the subcommittee, attendance by the alternate members who participated in formulating the recommendation would be desirable. Provision for reimbursement of expenses should include expenses incurred by members or alternates in attending or participating in conferences and similar industry related activities as authorized by the committee.

The authority to request attendance of alternate members at committee meetings should not be construed to mean that all alternate members should regularly be reimbursed for expenses related to attending all committee meetings. The payment of expenses of alternate members for attending meetings or performing service should be limited to those incurred when the attendance or performance of services has been requested by the committee or its' chairman. Of course, this does not preclude the attendance by any alternate at any or all meetings at such alternate's own expense.

(7) Section 932.36 currently provides that the committee may vote on issues by mail or telegram upon due notice to all members, provided that at least ten affirmative votes, of which five shall be producer member and five shall be handler member votes, shall be necessary for a vote to carry. One dissenting vote, however, prevents adoption of any proposition when voting by such method.

Assembled meetings of the committee are not held according to a set schedule. They are called when a proposition to be considered by the committee is such that discussion of the issues is deemed to be necessary. However, minor matters, or matters which have previously been discussed by the committee but for which an additional meeting would cause an undue burden on the committee's finances and the committee members' time, can be disposed of through a telegram or mail ballot. For example, the committee members could be asked to approve a budget item for which the actual amount was not known at the time of the committee meeting, but which was discussed in terms of approving up to a specific amount of money, with notice that the exact amount would be stated in a mail ballot. This procedure, which was intended to expedite decisions on generally minor matters, has been hampered by the use of the one dissenting votes were subsequently passed by the committee at an assembled meeting.

The use of mail balloting by the committee is desirable but the one vote veto has proved impractical. Therefore, § 932.36 should be amended to require at least 14 affirmative votes (15 when a public member is seated on the committee), seven of which must be producer votes and seven of which must be handler votes, for adoption of any proposition submitted to a telegraphic or mail ballot, and the one vote veto provision should be deleted. However, since there are only eight producer members, eight handler members, and an additional one public member, the 14 affirmative vote requirement (15 if a public member is seated) could prove to be more restrictive than the current requirement, i.e. five producer votes and five handler votes, with no dissenting votes. In such an event, the use of mail balloting, with its attendant savings in committee meeting costs would be frustrated. Therefore, it is concluded that the amendment should also provide that if the committee finds the 14 (or 15) affirmative vote requirement too stringent, it may recommend and the Secretary may approve changes in the number of affirmative votes required for a proposition submitted by mail balloting to carry, with the limitation that the number shall not be less than ten affirmative votes (11 if a public member is added to the committee), of which five shall be producer member votes and five shall be handler member votes, with the further limitation that any reduction in the number of affirmative votes required to pass such a proposal shall maintain the requirement of an equal number of producer and handler votes required for approval. It is therfore concluded that the order should be amended consistent with the foregoing.

(8) Section 932.39(c) should be amended to provide that the committee may levy interest of late payment charges, or both, on unpaid assessments. Such charges should be at a rate recommended by the committee and approved by the Secretary. In some instances handlers have not paid assessments on a timely basis. Such handlers have the use of funds, without interest, due the committee. This is unfair to handlers who pay their assessments promptly and thus, are carrying a disproportionate share of the financial costs of the program for periods of time. Also, the committee incurs additional expenses when required to collect late assessments due to the increased correspondence generated and the time spent by management and staff to secure payment.

Currently, the committee bills the handlers on a quarterly basis, with the first 35 percent on December 1, with a due date of December 15; the next 20 percent billed on February 1, with a due date of February 15; the next 20 percent billed on April 1 with a due date of April 15; and the last 25 percent billed on June 1, with a due date of June 15. These dates and percentages are fixed, administratively, by the committee and may be adjusted from time to time. Any interest or late payment charge levied by the committee should become effective from the day after the due date of such assessment.

The establishment of an interest rate or late payment charge, or a combination of the two, should be subject to a recommendation by the committee and approval by the Secretary. An interest or late payment charge at levels approximating commercial rates in the area should discourage delinquencies. Any such rate or charge established should continue in effect until such time as the committee recommends and the Secretary approves a change.

(9) The order currently requires the committee, after the close of each crop year, to prepare and mail reports on production research and marketing research and development projects to the Secretary. In practice the committee prepares and submits such reports to the Secretary on a current and timely basis, as soon as such research activities are completed. It is desirable that all current production research and marketing research and development project reports be prepared and submitted to the Secretary as soon as the committee has the necessary material to compile the reports, and § 932.45(e) should be amended to so provide.

(10) Section 932.51 of the order provides that no handler shall process any lot of natural condition olives for use in the production of packaged olives which have not first been size-graded, either by sample or by lot and classified into separate size designations in accordance with the size designations specified in the U.S. Standards for Grades of Canned Ripe Olives, or such sizes as may be recommended by the committee and established by the Secretary. The size designations are related to the value of the olives. Generally, within each given variety group, the larger the olives, the greater the value per ton.

The size designations currently specified in the order are based on the U.S. Standards for Grades of Canned Ripe Olives which were in effect in 1971. The U.S. Standards for Grades of Canned Ripe Olives were revised in 1977 and again in 1981. In the latter revision the number of single size designations was set at 7, and now conforms with prevailing industry practices. Hence, it is concluded that the size designations in the order should be in accordance with the current U.S. Grade Standards or such modifications as may be recommended by the committee and established by the Secretary.

Section 932.51 now provides that for purposes of the order, two additional size designations, petite and subpetite, shall be considered to be included in the designations set forth in the U.S. Grade standards. These designations are used in the industry to describe two sizes of olives smaller than the minimum size which may be used in the production of whole or pitted canned ripe olives. The order should be amended to include two other size designations: Extra Large Sevillano "L" and Extra Large Sevillano "C" and to specify the approximate count per pound and average count ranges for such additional size designations. The size designations in the current U.S. Grade standards combine the categories "Mammoth" (65 to 75 olives per pound) and "Extra Large" (76 to 88 olives per pound) into the redesignated category "Extra Large" (65 to 88 olives per pound). This designation does not afford a basis for the separation of olives of the Sevillano variety into sizes authorized, under the order, for limited use styles and whole styles. In order to effectuate this separation of styles, olives of the Sevillano variety with an average count range of 76 to 88 olives per pound and and approximate count of 82 olives per pound should be identified as Extra Large Sevillano "L" and such olives, when limited use sizes are authorized for use, may be used in limited use styles. Olives of the Sevillano variety with an average count range of 65 to 75 olives per pound and an approximate count of 70 olives per pound should be identified as Extra Large Sevillano "C" and such olives should be used in canned whole, whole pitted, or limited use styles. These average count ranges and approximate counts correspond with limited use sizes and sizes for canned whole or whole pitted styles for olives in variety Group 1, except the Ascolano, Barouni and St. Agostino varieties. The Sevillano is the only commercially grown variety in Group 1 and these requirements apply only to Sevillano olives.

The order currently authorizes adjustments in size designations for natural condition olives as appear to be warranted by the prevailing circumstances. In addition, the order should provide authority to change the names and the approximate counts and average count ranges for these four additional size designations (petite, subpetite, Extra Large Sevillano "L", and Extra Large Sevillano "C") based on a recommendation of the committee and approval by the Secretary.

Section 932.52 should be amended to base grade and size requirements for canned ripe olives on the current U.S. Grade Standards or subsequent amendments thereto. Currently, such requirements are based on the U.S. Grade Standards which became effective in 1971 (September 1, 1971). The record indicates that the current standards provide a practical basis for inspection and certification of canned ripe olives. However, should the current standards be subsequently amended, grade and size specifications in the order should be based on such amended standards. This is necessary so that the order requirements conform with any subsequent amendments to the U.S. grade standards. The order currently authorizes variations from grade standards for canned ripe olives for marketing order purposes by recommendation of the committee and approval of the Secretary. The order should also authorize, as hereinafter provided, modification of size designations for canned ripe olives for marketing order purposes by recommendation of the committee and approval by the Secretary. This would allow the committee to recommend adjustments in size designations as may be necessary to reflect changes in production and marketing of olives. As discussed further in material issue (11) this authority would also allow establishment of marketing order size designations to implement size certification for canned whole and whole pitted olives.

Testimony was given at the hearing suggesting that both incoming and outgoing regulations in the order should be based on the U.S. Grade Standards as revised in 1981. However, this proposal does not allow the necessary flexibility to permit order requirements to change with future revisions of such standards. The fact that the order currently bases grade and size designations in terms of the 1971 U.S. grade standards necessitated the request for this formal rulemaking proceeding to consider adopting the 1981 U.S. Grade Standards. If order requirements are tied to the 1981 U.S. Grade Standards, future revisions of such standards may require a subsequent amendment of the order. Formal rulemaking is time-consuming and costly both to the committee and the government. Therefore, it is concluded that grade and size requirements in the order should be in accordance with the current U.S. Grade Standards and any subsequent amendments thereto with provision for modification of such requirements as may be recommended by the committee and approved by the Secretary.

Amendment of the order to adopt the current U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52) requires conforming changes to be made in § 932.52. Section 932.52(a)(1) should be amended to reference the most recently amended U.S. Standards for Grades of Canned Ripe Olives.

Sections 932.52(a)(2) and 932.52(a)(6) now reference size designations designated in the 1971 U.S. Standards for Grades of Canned Ripe Olives. Changes in the descriptive terms used to designate olive sizes in the recently amended U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52) make such terms obsolete. Therefore, such descriptive terms should be deleted. It is concluded that the order should be amended to provide that the size designations under the order should be those contained in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52) as amended, or appropriate modifications thereof, as recommended by the committee and approved by the Secretary.

(11) The record indicates that natural condition olives may be inspected and certified as meeting incoming size requirements for processing as limited use styles of olives, but during storage and processing may lose weight to the extent that the fruit may not meet the outgoing requirements for such styles. Similarly, storage and processing shrinkage may occur so that natural condition olives initially meeting a specific size requirement for processing as whole style olives may ultimately packout as a smaller size fruit. In both cases, producers may have been paid the higher prevailing price for one size fruit which is ultimately sold as another size. Such a situation is inequitable to handlers who have paid a higher price for olives eligible, at the outset, for use in outlets for a size of fruit, which is ultimately disposed of as a different size of fruit. To the extent that prices for different sizes of fruit vary, handlers and producers may gain or lose.

The proposed amendment would provide a method of certification of single sizes of natural condition olives for compliance with both incoming and outgoing regulations under the order. Under the proposal, olives meeting the specified conditions of size would be eligible for use in outlets for such size even though weight loss may occur during storage and processing. Outgoing size requirements are set in terms of the weight of individual olives in particular varietal groups.

The order should provide that when the use of limited use size olives is authorized during any crop year, any lot

of such olives may be used in the production of limited use styles without an outgoing inspection for size if the average counts per pound at the incoming level, are within the following: Variety Group 1 (except the Ascolano, Barouni, and St. Agostino varieties): 76–88, inclusive; Variety Group 1 olives of the Ascolano, Barouni, and St. Agostino varieties: 89–140, inclusive; Variety Group 2 olives (except the Obliza variety): 141–180, inclusive; and Variety Group 2 olives of the Obliza variety: 128–140, inclusive. Such average counts include sizes between minimum canning and limited use for each respective varietal group and are therefore an appropriate basis for certification at the incoming level. However, provision should be made in the order for changing, by recommendation of the committee and approval of the Secretary, the varietal grouping or average counts or a combination thereof to recognize changes in sizing characteristics for a particular variety or varietal group and for other reasons. It may be desirable to establish additional inspection and size certification procedures. The industry has been using, on an informal basis, certification procedures, including establishment of approximate counts (midpoints) and acceptable count ranges within the average count range, to maintain size uniformity. The committee should consider these and other recommendations for approval by the Secretary.

As indicated, size certification of limited use size olives at the incoming level would obviate the need for inspection and certification at the outgoing level if specified conditions are met. One condition specified in the hearing record is that any lot of limited use size olives remain intact. This is necessary to prevent olives which have been inspected and certified as meeting size requirements from being commingled with other olives which have not been so inspected and certified. It is essential to assure compliance with order requirements that any olives certified as to size remain under surveillance of the inspection service. The order should provide authority for the committee to recommend to the Secretary additional procedures and safeguards to assure compliance with regulations. Of course, any olives which are certified as to size, but which do not remain intact or otherwise fail to conform with established procedures and safeguards, should be subject to outgoing regulations the same as any other lot not so certified.

The order should provide that when limited use size olives are not authorized for limited use styles during any crop year, any lot of the minimum canning size olives of each variety may be used in the production of packaged olives for limited use styles without an outgoing inspection for size if the varietal groups are within certain average counts per pound at the incoming level. Such groups and average counts per pound are as follows: Variety Group 1 (except the Ascolano, Barouni, and St. Agostino varieties): 65–75, inclusive; Variety Group 1 olives of the Ascolano, Barouni and St. Agostino varieties: 65–88, inclusive; Variety Group 2 olives (except the Obliza variety): 128–140, inclusive; and Variety Group 2 olives of the Obliza variety: 106–121, inclusive. Such average count ranges are comparable to the minimum canning size for each respective variety group and are therefore an appropriate basis for certification at the incoming level. However, provision should be made in the order for changing by recommendation of the committee and approval of the Secretary the varietal groupings or average count ranges or a combination thereof to recognize changes in sizing characteristics for a particular variety or varietal group and for other reasons. The industry has adopted standard inspection procedures to assure size uniformity of olives including approximate counts (midpoints) and acceptable count ranges within the average count range. The order should authorize the committee to recommend for approval by the Secretary approximate counts, acceptable count ranges, and such other procedures as may be necessary to assure proper sizing of olives at the incoming level.

Furthermore, it is necessary that any lot of olives certified as to size remain intact and not be commingled with olives not certified as to size. As further experience is gained in size certification, it may be desirable to establish additional procedures and safeguards to assure compliance with such regulations and the order should so provide.

It was also proposed that a provision be included in the order that would permit size certification of minimum canning size for use in the production of pitted style olives. However, the order requires that with respect to size, canned whole pitted olives shall conform to the size designations set forth in the U.S. Grade Standards. The inspection service may not certify canned pitted olives as meeting the size requirements in the U.S. Grade Standards on the basis of olives having met the size requirements for natural condition olives at the incoming level. Outgoing inspection must be performed on such olives to determine compliance with the U.S. Grade Standards.

As proposed to be amended, the order would provide that size desigations for canned whole and canned pitted olives may be modified by the committee with the approval of the Secretary. This would permit establishment of olive size designations for marketing order purposes in lieu of size designations in the U.S. Grade Standards. The record indicates that is may be practical to use marketing order size designations as a basis for size certification of olives for use in whole or pitted olives styles. It is not known at this time whether sizes, other than minimum canning sizes, should be included in size certification. In order to allow for changes in industry olive usage and to facilitate inspection and certification of olives the order should provide that, if marketing order sizes are adopted, size certification for canned whole or whole pitted styles should apply to any or all sizes as recommended by the committee and approved by the Secretary.

To assure proper size uniformity the order should provide for establishment of average count ranges, acceptable count ranges and approximate counts for each variety or varietal group as recommended by the Committee and approved by the Secretary. Therefore, the order should authorize the committee to recommend, subject to approval by the Secretary, size certification procedures for olives used in the production of canned whole or pitted styles of olives.

A brief was filed by the Olive Administrative Committee on the size certification proposal. The brief objected to the Department's view during the hearing that size certification cannot be made applicable to the canned pitted style of olives when size requirements for such style are expressed in terms of the U.S. Grade Standards. The order currently provides that canned whole or pitted styles of olives conform to the size designation set forth in the U.S. Grade Standards. The proposed amendment would provide for modification of these size designations by recommendation of the committee and approval of the Secretary. As indicated, size certification for canned whole or pitted styles may be implemented by establishment of marketing order size designations for such styles. Thus, a means to effect size certification procedures is available to the committee.

(12) Some of the proposed amendatory actions herein would require certain changes, as hereinafter set forth, in the provisions of the order, so that the order, as proposed to be amended, will be in conformity with those actions. Such changes are discussed herein with the issues to which pertinent. All such changes should be incorporated herein.

Rulings on Briefs of Interested Persons: At the end of the hearing, the Administrative Law Judge fixed January 25, 1982, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence presented at the hearing. Briefs were filed by the Olive Administrative Committee and the Olive Growers Council of California.

Each point included in the briefs was carefully considered, along with evidence in the record, in making the findings and reaching the conclusions contained herein. However, those portions of the briefs which concern handler assessment credit for brand advertising will be covered in a subsequent recommended decision. To the extent that any suggested findings or conclusions contained in any of the briefs or arguments are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of facts found and stated in connection with the recommended decision.

General Findings: Upon the basis of the record, it is found that: (1) The findings hereinafter set forth are supplementary, and in addition to, the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except when such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of olives in production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of olives produced in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(6) All handling of olives produced in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

PART 932—OLIVES GROWN IN CALIFORNIA

Recommended Amendment of the Marketing Agreement and Order: The following amendment of the marketing agreement and order, as amended, is recommended as the detailed means by which the foregoing conclusions may be carried out:

1. Section 932.18 is revised to read:

§ 932.18 Committee.

"Committee" means the California Olive Committee established pursuant to § 932.25.

2. Section 932.19 is revised to read:

§ 932.19 Crop year and fiscal year.

(a) "Crop year" means the 12-month period beginning on August 1 of each year and ending on July 31 of the following year or such other period that may be recommended by the committee and approved by the Secretary.

(b) "Fiscal year" means the 12-month period beginning on January 1 and ending on December 31 of each year or such other period that may be recommended by the committee and approved by the Secretary.

§ 932.23 [Amended]

3. Section 932.23 is revised by removing "932.51(a)(2)" and substituting "932.51(a)(3)" in lieu thereof.

4. Section 932.23a is revised to read:

§ 932.23a Limited use.

"Limited use" means the use of processed olives in the production of packaged olives of the halved, segmented (wedged), sliced, or chopped styles, as defined in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52) or subsequent amendments thereto, including modifications of the requirements for such styles pursuant to this part, and such additional styles (and the requirements applicable thereto) as may be specified pursuant to § 932.52(a)(7).

5. Section 932.25 is revised to read:

§ 932.25 Establishment and membership.

A California Olive Committee consisting of 16 members, is hereby established to administer the terms and provisions of this part. Each member shall have an alternate who meets the same qualifications as the member. Eight of the members and their alternates shall be producers or officers or employees of producers, and eight of the members and their alternates shall be handlers or directors, officers, or employees of handlers. The eight members of the committee who are producers or officers or employees of producers are referred to in this subpart as "producer members" of the committee; and the eight members of the committee who are handlers or directors, officers, or employees of handlers are referred to in this subpart as "handler members" of the committee.

The committee may be increased by one public member who shall not be a producer or handler of olives nor an officer or employee or director of any producer or handler of olives. District representation of the producer members shall be two from District 1, four from District 2, and two from District 3. Allocation of the handler members shall be four members to represent cooperative marketing organizations, herein referred to as "cooperative handlers", and four members to represent handlers who are not cooperative marketing organizations, herein referred to as "independent handlers": *Provided,* That whenever during the crop year in which nominations are made and in the preceding crop year, the cooperative handlers or the independent handlers handled as first handler 65 percent or more of the total quantity of olives so handled by all handlers, allocation shall be five members to represent the group which so handled 65 percent or more of such olives and three members to represent the group which handled 35 percent or less. The public member and alternate public member shall be selected from any place within the area. The committee may, with the approval of the Secretary, provide such other allocation of producer or handler membership, or both, as may be

necessary to assure equitable representation.

6. Section 932.28 is revised to read:

§ 932.28 Eligibility.

Each producer member of the committee shall, at the time of selection and during the member's term of office, be a producer in the district for which selected, and except for producers who are members of cooperative handlers shall not be engaged in the handling of olives either in a proprietary capacity, or as a director, officer, or employee. Each handler member of the committee shall, at the time of selection and during the member's term of office, be a handler in the group that the member represents or a director, officer, or employee of such handler. The public member and alternate public member of the committee shall not at the time of selection and during the term of office be engaged in or have a financial interest in the commercial production, marketing, buying, grading, or processing of olives, nor shall such member or alternate be an officer, director, member, or employee of any firm engaged in such activities.

7. Section 932.29 is amended by revising paragraph (a) and adding a new paragraph (c) to read:

§ 932.29 Nominations.

(a) *Producer members.* (1) Nominations for producer members of the committee, and their respective alternates, may be conducted according to the following procedures, or other procedures recommended by the committee and approved by the Secretary:

(i) Meetings shall be held in each producer district for the purpose of selecting candidates for the member and alternate member nominations;

(ii) Those candidates selected at the producer meetings shall be nominated by mail balloting of producers in that district;

(iii) The committee shall adopt, with approval of the Secretary, appropriate procedures to be observed for conducting producer nominations by mail: *Provided,* That the names of nominees shall be submitted to the Secretary prior to April 16 of the year in which nominations are made.

(2) Only producers, including duly authorized officers or employees of producers, shall participate in the nomination of producer members and alternate members. Each producer shall be entitled to cast only one vote for each nominee to be selected in the district in which the producer produces olives. No producer shall participate in the selection of nominees in more than one district. If a producer produces olives in more than one district, such producer shall select the district in which such producer will so participate and notify the committee of such choice.

* * * * *

(c) *Public member.* Nominations for the public member and alternate public member of the committee shall be submitted to the Secretary prior to April 16 of the year in which nominations are made. The committee shall prescribe procedures for the selection and voting for each candidate.

8. Section 932.30 is revised to read:

§ 932.30 Alternates.

An alternate for a member of the committee shall act in the place and stead of such member (a) during such member's absence, and (b) in the event of such member's removal, resignation, disqualification or death, until a successor for such member's unexpired term has been selected and has qualified. Except as otherwise specifically provided in this subpart, the provisions of this part applicable to members also apply to alternate members. The committee or the chairman of the committee may request one or more alternates to attend any or all meetings notwithstanding the expected or actual attendance of the respective member or members.

9. Section 932.35 is amended by revising paragraphs (g) and (h) to read:

§ 932.35 Duties.

The committee shall have, among others, the following duties:

* * * * *

(g) To submit to the Secretary, prior to the beginning of each fiscal year and not later than December 15, a budget of the anticipated expenses of the committee and the proposed assessment rate for such fiscal year, together with a report thereon.

(h) To cause the books of the committee to be audited by one or more certified public accountants at least once each fiscal year, and at such other times as the committee may deem necessary or as the Secretary may request. The report of each such audit shall show, among other things, the receipts and expenditures of funds, and at least two copies of each such audit report shall be submitted to the Secretary.

* * * * *

10. Section 932.36 is revised to read:

§ 932.36 Procedure.

Decisions of the committee shall be by majority vote of the members present and voting, and a quorum must be present: *Provided,* That decisions requiring a recommendation to the Secretary on matters pertaining to grade and size regulations shall require at least 10 affirmative votes, at least 5 of which must be from producer members and at least 5 of which must be from handler members and, if the committee is increased by the addition of a public member, at least 11 affirmative votes shall be required, at least 5 of which must be from producer members and at least 5 of which must be from handler members. A quorum shall consist of at least 10 members of whom at least 5 shall be producer members and at least 5 shall be handler members and, if the committee is increased by the addition of a public member, a quorum shall consist of at least 11 members of which at least 5 shall be producer members and at least 5 shall be handler members. Except in case of an emergency, a minimum of 5 days' advance notice shall be given with respect to any meeting of the committee. In case of an emergency, to be determined within the discretion of the chairman of the committee, as much advance notice of a meeting as is practicable in the circumstances shall be given. The committee may vote by mail or telegram upon due notice to all members, but any proposition to be so voted upon first shall be explained accurately, fully, and identically by mail or telegram to all members. When voted on by such method, at least 14 affirmative votes, of which 7 shall be producer member votes and 7 shall be handler member votes, shall be required for adoption and, if the committee is increased by the addition of a public member, votes by mail or telegram shall require at least 15 affirmative votes, of which at least 7 shall be producer member votes and at least 7 shall be handler member votes. The committee may recommend for the Secretary's approval changes in the number of affirmative votes required for adoption of any proposition voted upon by means of a mail or telegram ballot: *Provided,* That the number of affirmative votes required for adoption shall not be less than 10, and in any case an equal number of producer member and handler member votes shall be required for adoption and, if the committee is increased by the addition of a public member, the number of affirmative votes required for adoption shall be increased by one.

11. Section 932.37 is revised to read:

§ 932.37 Compensation and expenses.

The members of the committee and alternates when acting as members or at the request of the committee or its chairman shall serve without

compensation, but shall be reimbursed for necessary expenses, as approved by the committee, incurred by them in the performance of their duties under this part.

12. Section 932.39 is amended by revising paragraphs (a) and (b) and adding a new paragraph (c) to read:

§ 932.39 Assessments.

(a) As the handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal year, each handler who first handles olives during the current crop year shall pay to the committee, upon demand, assessments on all olives to be used in the production of packaged olives, including olives to be used in canned ripe olives of the tree-ripened" type or green olives when such are regulated as packaged olives pursuant to § 932.52. The payment of assessments for maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such handler during a fiscal year in an amount designed to secure sufficient funds to cover the expenses which may be incurred during such period. At any time during or after the fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all olives handled during the applicable crop year. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal year before sufficient operating income is available from assessments, the committee may accept the payment of assessments in advance, and may also borrow money for such purpose.

(c) Any assessment not paid by a handler within a period of time prescribed by the committee may be subject to an interest or late payment charge, or both. The period of time, rate of interest and late payment charge shall be as recommended by the committee and approved by the Secretary. Subsequent to such approval, all assessments not paid within the prescribed period of time shall be subject to an interest or late payment charge or both.

13. Section 932.40 is amended by revising paragraph (a) to read:

§ 932.40 Accounting.

(a) If, at the end of a fiscal year, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve as provided in paragraph (a)(2) of this section, the committee shall refund or credit to handler accounts the aforesaid excess. Each handler's share of such excess funds shall be the amount of assessments such handler has paid in excess of such handler's pro rata share of the actual net expenses of the committee for such fiscal year. Excess funds may be used temporarily by the committee to defray expenses of the subsequent fiscal year: *Provided,* That each handler's share of such excess shall be made available to the handler by the committee within five months after the end of the fiscal year.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal years as a reserve: *Provided,* That funds already in the reserve do not exceed approximately one fiscal year's expenses. Such reserve funds may be used for any expenses authorized pursuant to § 932.38 and for necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropiate: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

* * * * *

14. Section 932.45 is amended by revising paragraphs (d) and (e) to read:

§ 932.45 Production research and marketing research and development projects.

* * * * *

(d) If the committee should conclude that a program of production research, marketing research, or development should be undertaken or continued pursuant to this section in any fiscal year, it shall submit the following for the approval of the Secretary:

* * * * *

(e) The committee shall, as soon as practicable, prepare and mail reports on current production research and marketing research and development projects to the Secretary and make a copy of such reports available at the committee office for examination by producers, handlers, or other interested parties.

15. Section 932.50 is amended by revising the first sentence to read:

§ 932.50 Report of marketing policy.

At least 14 days prior to the start of each crop year (except that this period may be shortened by the committee not more than 5 days if warranted), the committee shall hold a meeting for the purpose of formulating a marketing policy for the coming crop year: *Provided,* That with respect to the 1982–83 crop year the committee shall hold a meeting for such purpose as soon as practicable. * * *

16. Section 932.51 is amended by revising paragraph (a)(1)(ii); redesignating paragraphs (a)(2), (a)(3), and (a)(4) as paragraphs (a)(3), (a)(4), and (a)(5), respectively, adding a new paragraph (a)(2); and amending redesignated paragraphs (a)(4) and (a)(5) as follows:

§ 932.51 Incoming regulations.

(a) Minimum standards for natural condition olives.

(1) * * *

(ii) Size-graded, either by sample or by lot, under the supervision of any such inspection service and classified into separate size designations and a certification issued with respect thereto by such inspection service. Such size designations shall be in accordance with those set forth in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52) or subsequent amendments thereto, or such sizes as may be recommended by the committee and established by the Secretary: *Provided,* That, for the purpose of this part, the size designations in said standards shall be deemed to include the following additional size designations.

Designation(s)	Approximate count (per pound)	Average count range (per pound)
Subpetite		181 and up.
Petite	160	141–180, inclusive.
Extra Large Sevillano "L".	82	76–88, inclusive.
Extra Large Sevillano "C".	70	65–75, inclusive.

Provided Further, That the additional size designations may be renamed and/or modified as recommended by the committee and approved by the Secretary. Such certification shall show, in addition to the quantities by weight of the olives in the lot that are classified as being in each size or size designation the quantity of olives classified as culls by the handler: *Provided,* That when the Secretary, upon the recommendation of the committee, issues a definition of and classification for "culls", the aforesaid

quantity of culls shall be determined on the basis of such definition and in accordance with such classification.

(2) Each handler may satisfy the incoming and outgoing size requirements for any lot of olives under the conditions set forth in subdivisions (i), (ii), and (iii) of this paragraph: *Provided,* That any such lot shall be kept intact under surveillance by the inspection services:

(i) When the Secretary authorizes use of limited size olives for limited use styles during any crop year, any lot of limited use size olives may be used in the production of packaged olives for limited use styles without an outgoing inspection if such olives are within the following average count range for that variety group, and meet such further size requirements as recommended by the committee with the approval of the Secretary:

Variety	Average count range (per pound) inclusive
Group 1, except Ascolano, Barouni, and St. Agostino	76–88
Group 1, Ascolano, Barouni and St. Agostino	89–140
Group 2, except Obliza	141–180
Group 2, Obliza	128–140

Provided, That the varietal groupings and/or average count ranges may be changed, and additional size certification procedures and requirements may be established as recommended by the committee and approved by the Secretary;

(ii) When limited use size olives are not authorized for limited use styles during any crop year, any lot of the minimum canning size olives may be used in the production of packaged olives for limited use styles without an outgoing inspection for size if such olives are within the following average count range for that variety group, and meet such further size requirements as recommended by the committee with approval of the Secretary:

Variety	Average count range (per pound) inclusive
Group 1, except Ascolano, Barouni, and St. Agostino	65–75
Group 1, Ascolano, Barouni and St. Agostino	65–88
Group 2, except Obliza	128–140
Group 2, Obliza	106–121

Provided, That for whole and whole pitted styles of olives an additional size grading is required after processing, prior to canning, and those olives that fail to meet the requirements in § 932.52 may be used in limited use styles. *Provided Further,* That the varietal groupings, average count ranges, and/or other size requirements may be changed or modified as recommended by the committee and approved by the Secretary;

(iii) The committee may recommend, subject to approval by the Secretary, size certification procedures for olives used in the production of canned whole or pitted styles of olives: *Provided,* That if size certification for canned whole or pitted styles is implemented, marketing order sizes shall be adopted and size requirements in the U.S. Grade Standards shall not apply. Size certification of such styles shall be applicable to any or all sizes of olives recommended by the committee and approved by the Secretary pursuant to § 932.52(a)(2). Size certification procedures recommended to the Secretary may include but are not limited to the establishment of average count ranges, acceptable count ranges, and approximate counts (midpoints) for each variety or variety group.

(3) Each handler shall, under the supervision of any such inspection service, dispose of into noncanning use an aggregate quantity of olives, comparable in size and characteristics and equal to the quantities shown on the certification for each lot to be:

(i) Variety Group 1 olives, except the Ascolano, Barouni, and St. Agostino varieties, of a size which individually weigh less than 1/90 pound;

(ii) Variety Group 1 olives of the Ascolano, Barouni, and St. Agostino varieties of a size which individually weigh less than 1/140 pound;

(iii) Variety Group 2 olives, except the Obliza variety, of a size which individually weigh less than 1/180 pound;

(iv) Variety Group 2 olives of the Obliza variety of a size which individually weigh less than 1/140 pound;

(v) Such other sizes for the foregoing variety groups as are not authorized for limited use pursuant to § 932.52; and

(vi) Olives classified as culls.

(4) Notwithstanding the provisions of paragraph (a)(3) of this section, a handler may (i) meet any deficit in such handler's undersize obligation in one variety by disposing of, under supervision of the inspection service, as other than canned ripe olives, an equal quantity of undersize olives, of any other variety, or by so disposing of an equal quantity of olives of that or any other variety of sizes larger than undersize of a quality better than culls, and (ii) meet any deficit in such handler's cull obligation in one variety by so disposing of an equal quantity of cull olives of any other variety, or by so disposing of an equal quantity of olives of any variety of sizes larger than undersize of a quality better than culls.

(5) Each handler shall hold at all times a quantity of olives equal to the quantities required in paragraph (a)(3) of this section, less any quantity previously disposed of as specified in such subparagraph.

* * * * *

17. Section 932.52 is amended by revising paragraphs (a)(1), (a)(2), (a)(2)(i), (a)(2)(ii), (a)(2)(iii), (a)(3), (a)(4), (a)(6), and paragraphs (b)(1) and (b)(2) to read:

§ 932.52 Outgoing regulations.

(a) Minimum standards for packaged olives. * * *

(1) Canned ripe olives, other than those of the "tree-ripened" type, shall grade at least U.S. Grade C as such grade is defined in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52) or subsequent amendments thereto, or as modified by the committee, with approval of the Secretary, for purposes of this part.

(2) Except as provided in § 932.51(a)(1) and (2), canned whole ripe olives, other than those of the "tree-ripened" type, shall conform to the single size designations set forth in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52) or subsequent amendments thereto, or as modified by the committee, with the approval of the Secretary, and shall be of a size not smaller than the following applicable size requirements, tolerances and percentages: *Provided,* That the Secretary, on the basis of a recommendation of the committee or other available information, may change such sizes, tolerances or percentages:

(i) With respect to variety group 1 olives, except the Ascolano, Barouni, and St. Agostino varieties, the individual fruits shall each weigh not less than 1/75 pound, except that (a) for olives of the extra large size designation, not more than 25 percent, by count, of such olives may weigh less than 1/75 pound each including not more than 10 percent, by count, of such olives that weigh less than 1/82 pound each; and (b) for olives of any designation except the extra large size, not more than 5 percent, by count, of such olives may weigh less than 1/75 pound each;

(ii) with respect to variety group 1 olives of the Ascolano, Barouni and St. Agostno varieties, the individual fruits shall each weigh not less than 1/88 pound

except that (a) for olives of the extra large size designation, not more than 25 percent, by count, of such olives may weigh less than ⅛₈ pound each including not more than 10 percent, by count, of such olives that weigh less than ⅛₈ pound each, and (b) for olives of any size designation, except the extra large size, not more than 5 percent, by count, of such olives may weigh less than ⅛₈ pound each;

(iii) With respect to variety group 2 olives, except the Obliza variety, the individual fruits shall each weigh not less than ¹⁄₁₄₀ pound except that (a) for olives of the small size designation, not more than 35 percent, by count, of such olives may weigh less than ¹⁄₁₄₀ pound each including not more than 7 percent, by count, of such olives that weigh less than ¹⁄₁₆₀ pound each; and (b) for olives of any size designation, except the small size, not more than 5 percent, by count, of such olives may weigh less than ¹⁄₁₄₀ pound each; and

(iv) * * *

(3) Subject to the provisions set forth in paragraph (a)(4) of this section and § 932.51(a)(1) and (2), processed olives to be used in the production of canned pitted ripe olives, other than those of the "tree-ripened" type, shall meet the same requirements as prescribed pursuant to paragraph (a)(2) of this section: *Provided,* That olives smaller than those so prescribed, as recommended annually by the committee and approved by the Secretary, may be authorized for limited use but any such limited use size olives so used shall be not smaller than the following applicable minimum size: *Provided further,* That each such minimum size may also include a size tolerance (specified as a percent) as recommended by the committee and approved by the Secretary. * * *

* * * * *

(6) The size designations used in this section mean the size designations described in (a)(1)(ii) of § 932.51.

(7) * * *

(b) Disposition requirements for limited use size olives.

(1) The requirements of this paragraph are in addition to and not in substitution of the requirements of § 932.51(a)(5).

(2) Each handler shall, under the supervision of the Processed Products Branch, USDA, or the Federal or Federal-State Inspection Service, dispose of limited use size olives into limited use or into noncanning use: *Provided,* That whenever a handler's use of limited use size olives is restricted pursuant to § 932.52(a)(4), such handler shall dispose of into noncanning use that quantity of such limited use size olives which is in excess of the quantity permitted for limited use.

* * * * *

18. Section 932.53 is amended by revising paragraph (a) to read:

§ 932.53 Inspection and certification.

(a) Each handler shall have the olives such handler handles inspected and certified as for conformance with all applicable requirements pursuant to §§ 932.51 and 932.52 with respect to such handling. Inspection and certification for conformance with the requirements of § 932.51 shall be by the Federal or Federal-State Inspection Service, including certification as to size, and inspection for conformance with the requirements of § 932.52 shall be by the Processed Products Branch, USDA, except that the disposition of olives, other than as canned ripe olives, in accordance with the requirements of § 932.51(a)(3) may be under the supervision of any of such inspection services. A copy of each certification by the said inspection services, pursuant to the provisions of this section, shall be furnished to the committee.

* * * * *

§ 932.54 [Amended]

19. Section 932.54 is revised by removing "932.51(a)(2)" and substituting "932.51(a)(3)" in lieu thereof.

20. Section 932.68 is amended by revising paragraph (c) and removing paragraph (d) to read:

§ 932.68 Termination.

* * * * *

(c) The Secretary shall terminate the provisions of this subpart at the end of any crop year whenever the Secretary finds that such termination is favored by a majority of producers who, during a representative period determined by the Secretary, have been engaged in the area in the production of olives for market as packaged olives: *Provided* That such majority have during such representative period produced for market more than 50 percent of the volume of such olives produced for market, but such termination shall be effective only if announced on or before July 15 of the then current crop year.

Signed at Washington, D.C., on May 7, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-13008 Filed 5-12-82; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; TIL-1]

Truth in Lending; Proposed Official Staff Commentary Update

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed official staff interpretation.

SUMMARY: In accordance with Appendix C to 12 CFR Part 226, the staff of the Federal Reserve Board is publishing for comment a proposed update to the official staff commentary to Regulation Z (Truth in Lending), as revised effective April 1, 1981. The commentary applies and interprets the requirements of the revised Regulaton Z to open-end and closed-end consumer credit and is intended to substitute for individual Board and staff interpretations of the regulations.

DATE: Comments must be received on or before June 28, 1982.

ADDRESS: Comments should be mailed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th and Constitution Avenue, NW, Washington, D.C. between 8:45 a.m. and 5:15 p.m. To aid in their consideration, comments should include a reference to TIL-1, and discussion of each section should begin on a separate page. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: The following attorneys in the Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-3667 or (202) 452-3867:

Subpart A—Gerald Hurst, Rugenia Silver.

Subpart B and Appendices—Ruth Amberg, Jesse Filkins, Lynn Goldfaden, Gerald Hurst, John Wood.

Subpart C and Appendices—Clarence Cain, Rugenia Silver, Susan Werthan, Claudia Yarus, Steven Zeisel.

SUPPLEMENTARY INFORMATION: (1) *General.* Effective October 13, 1981, an official staff commentary was published (46 FR 50288, Oct. 9, 1981) to interpret Regulation Z, as revised effective April 1, 1981. Creditors now have the option of complying with revised Regulation Z and the commentary, but compliance does not become mandatory until October 1, 1982 (Pub. L. 97-110, December 26, 1981). The commentary is

designed to provide general guidance to creditors in applying the regulation to specific transactions. Although each unique credit plan cannot be individually addressed in the commentary, periodic updates will provide the vehicle for additional staff interpretations that may be necessary as new questions arise.

In revising the commentary, an attempt is being made to avoid revisions that would require modifications to forms that have been prepared based on the existing regulation and commentary. The types of changes being proposed generally give creditors more flexibility in making disclosures, while preserving basic consumer protections. Changes generally will be made only when necessary to respond to significant questions that have arisen since the commentary's issuance or to clarify ambiguous language. Purely editorial changes are being avoided. However, because this is the first update to the commentary, some technical and editorial changes have been necessary in order to expedite adjustment to the commentary's new material and format. Although in most cases the location of comments has not been affected, some have been renumbered as a result of the deletion or addition of material.

Certain conventions have been used to highlight the revised language in the commentary. New language is highlighted by bold-faced arrows, while language that has been deleted is set off with brackets. Although the inclusion of existing commentary language adds to the length of this document, this format seems to be the most helpful way of pointing out proposed changes.

Comments must be received by June 28, 1982. In order to expedite analysis of the comments, commenters are requested to identify comments by section and paragraph numbers and to begin discussion of each section on a separate page. If comments are received on issues not raised by the proposed revisions, these comments would most likely be considered for possible inclusion in the next commentary update.

Final revisions will be published in the **Federal Register**; it is anticipated that final publication will be no later than the beginning of September. Although creditors will be able to rely on the revisions at that time, the applicability of the revisions will be optional until April 1, 1983, which will be specified in the final rule document. The later date will be provided to minimize any difficulties that creditors may experience in adjusting to the revisions.

(2) *Proposed Revisions.* Following is a brief description of the revisions contained in the commentary update.

Introduction

Comment I–3 would be amended to reference the regulation's effective date of October 1, 1982, in accordance with Pub. L. 97–110 (December 26, 1981).

Subpart A—General

Section 226.2—Definitions and Rules of Construction

2(a)(3) "Arranger of Credit"

Comment 2(a)(3)–6 would be added to explain the Board's recent amendment to § 226.2(a)(3) of the regulation (47 FR 7391, Feb. 19, 1982) dealing with real estate brokers.

2(a)(13) "Consummation"

Comment 2(a)(13)–1 would be revised to show that consummation may occur when the parties enter a commitment agreement that binds them to specific credit terms if under state law a contractual relationship is created. This revision should also ensure that consummation will occur no later than the time a note or contract is signed.

2(a)(23) "Prepaid Finance Charge"

Comment 2(a)(23)–2 would be revised to make clear that any portion of the finance charge paid at closing or settlement is considered a prepaid finance charge.

2(a)(24) "Residential Mortgage Transaction"

Comment 2(a)(24)–1 would be revised to add § 226.20(b) to the list of provisions using the term "residential mortgage transaction." Its omission was inadvertent.

2(a)(25) "Security Interest"

Comment 2(a)(25) would be revised to permit creditors at their option to disclose certain interests as security interests when uncertainty exists as to whether a particular interest is one of the excluded interests.

Section 226.4—Finance Charge

4(b) Examples of Finance Charge

Comment 4(b)(9)–3 would be added to explain the "regular price" definition in amended section 103(x) of the act and its relationship to cash discounts offered under section 167(b) of the act. The comment specifically discusses the displaying of prices for motor vehicle fuel.

4(c) Charges Excluded from the Finance Charge

Comment 4(c)(7)–1 would be revised to state that a charge for a lawyer's attendance at the closing is not a finance charge if the attorney attends to complete the documents.

4(d) Insurance

Comment 4(d)–11 would be added to clarify the concept of initial term of insurance coverage and to permit the initial term to be considered one year if the creditor is uncertain of the term.

Subpart B—Open-End Credit

Section 226.5—General Disclosure Requirements

5(a) Form of Disclosures

Comment 5(a)(2)–1 would be revised to include additional examples of the application of the "more conspicuous" rule. These examples would clarify the rule; no substantive changes are intended.

5(b) Time of disclosures

Comment 5(b)(1)–1 would be revised to explain more clearly when initial disclosures are timely if the plan involves an initial fee that is paid before the initial disclosures are given, or if the plan involves an advance made at the time that the consumer is given the initial disclosures.

5(c) Legal Obligation

Comment 5(c)–1 would be revised to clarify the meaning of the term "legal obligation." Comment 17(c)(1)–1, which contains a discussion of legal obligation for closed-end credit transactions, would add a sentence to show the effect of certain previous court decisions on disclosures. This issue arises in part because of the requirement that closed-end disclosures be segregated from other information, a requirement that does not exist for open-end credit. The staff solicits comment on whether a companion provision for open-end credit should be added.

5(d) Multiple Creditors; Multiple Consumers

Material that was inappropriate for commentary treatment would be deleted from comment 5(d)–1.

Section 226.6—Initial Disclosure Statement

6(a) Finance Charge

Comment 6(a)(2)–2 would be revised in its description of the types of open-end credit programs for which the creditor's initial disclosure of planned rate changes excuses the creditor from

the general requirement to give notices when the rate increases according to the disclosed plan. The current commentary provides that creditors may avoid these notices after giving appropriate disclosures in plans in which the rates follow an index that is "readily verifiable by the borrower and beyond the control of the lender."

A number of questions have arisen as to the interpretation and purpose of the current commentary language. In particular, some creditors have raised concerns about programs that would use certain internal rates as the index and therefore not meet the criterion that the index be beyond the lender's control. These creditors have noted that tying the rate to their commercial lending rate or to rates paid on savings instruments is a customary practice. The proposal reflects these concerns, while at the same time continuing to provide guidance on the types of rate increases for which additional disclosures may be needed.

6(b) Other Charges

Language would be added to comment 6(b)–2 to provide that a charge for submitting as payment a check that is later returned unpaid would not be another charge.

Section 226.7—Periodic Statements

7(b) Identification of Transactions

Comment 7(b)–1 would be revised to clarify that the listed ways for a creditor to identify transactions for multifeatured plans are merely examples of acceptable arrangements.

7(c) Credits

Comment 7(c)–3 would be revised to clarify when additional identification of dates is needed, and also that no specific terminology would be required for these date identifications.

7(e) Balance on Which Finance Charge Computed

Comment 7(e)–2 would be revised by indicating that the exception permitting the creditor to disclose one combined balance when split rates (or "break rates") are applied does not extend to the case in which split rates are applied to each day's balance. This change would return to the position under previous Regulation Z, and correct the inadvertent reference in current comment 7(e)–4. That reference permitted a combined balance, which would not allow verification of the finance charge attributable to periodic rates.

The last sentence of current comment 7(e)–4 would be deleted, and incorporated in comment 7(e)–2.

Comments 7(e)–4, 5, 6, and 7 of the current commentary would be redesignated as comments 7(e)–5, 6, 7, and 8, and current comment 7(e)–8, which deals with the disclosure of the periodic rate balance amount in multifeatured plans, would be redesignated as comment 7(e)–4.

Comment 7(e)–4 (current comment 7(e)–8) would be revised to give more complete guidance on when separate balances must be disclosed when a plan involves different features.

Comment 7(e)–9 would be added to clarify that the creditor could explain its balance computation method only once, even if it chooses to disclose more than one balance computed by that same method.

7(g) Annual Percentage Rate

Comment 7(g)–2 would be expanded to clarify that, in multifeatured plans, the creditor may give separate annual percentage rate disclosures for each feature or may give a composite actual annual percentage rate for the entire plan.

Section 226.8—Identification of Transactions

8(a) Sale Credit

In the last sentence of comment 8(a)(3)–2, the inadvertent reference to "creditor's stores would be changed to "seller's" stores.

Comment 8(a)(3)–4 would be added to reflect the position under previous Regulation Z that the debiting date may be considered the transaction date for foreign transactions.

Section 226.9—Subsequent Disclosure Requirements

9(c) Change in Terms

Comment 9(c)–1 would be revised to correspond to the revisions to comment 6(a)(2)–2.

Section 226.13—Billing-error Resolution

13(d) Rules Pending Resolution

Comment 13(d)(1)–2 would be revised to clarify that, for purposes of § 226.13(d)(1), the creditor need only disclose that payment of "any disputed amount" is not required pending resolution, as was the case under the previous Regulation Z.

Section 226.14—Determination of Annual Percentage Rate

14(c) Annual Percentage Rate for Periodic Statements

An editorial change would be made to comment 14(c)–8 to correct the inadvertent use of the term "fees" instead of "finance charges." The change would indicate that the optional annual percentage rate formula in § 226.14(c)(4) may be used when small finance charges, not fees, of 50 cents or less are involved.

Comment 14(c)–9 would be added merely to cross-reference comment 14(d)–2. The latter comment discusses the annual percentage rate calculation methods for plans involving both daily periodic rates and specific transaction charges.

14(d) Calculations Where Daily Periodic Rate Applied

Comment 14(d)–2 would be revised to provide alternative annual percentage rate calculation methods when the finance charge results from the application of both daily periodic rates and specific transaction charges. The comment would allow creditors to use either the method in § 226.14(c)(3) or the method in §226.14(d)(2); comment is specifically solicited on whether the option to use the method in § 226.14(d)(2) is needed.

The §226.14(c)(3) method includes the rules in Appendix F; the appendix gives examples for determining the denominator of the fraction in this formula. Footnote 1 to the appendix instructs creditors that apply both a daily periodic rate and a specific transaction charge to use the average of daily balances instead of the sum of the balances.

If the §226.14(d)(2) method is used, the creditor should apply the rule that balances not be duplicated (set forth in §226.14(c)(3) and explained in comment 14(c)–5), as well as the rule that the annual prcentage rate must not be less than the largest corresponding annual percentage rate for that cycle (set forth in §226.14(c)(3)).

Section 226.15—Right of Rescission

15(a) Consumer's Right to Rescind

Two changes are proposed for comment 15(a)–2. First, the dates in the comment, which refer to the three-year trial period in section 125(e) of the act, would be changed from March 31, 1985 to September 30, 1985 to reflect the change in the mandatory effective date of the act from April 1, 1982 to October 1, 1982. Second, a sentence would be added to clarify that the limited rescission option is available for programs whether or not they existed on the effective date of the act.

Section 226.16—Advertising

16(b) Advertisement of Terms that Require Additional Disclosures

Comment 16(b)(1)–6 would be added to make clear that charges excluded from the finance charge under §226.4 are not required disclosures when a triggering term is used in an advertisement.

Subpart C—Closed-End Credit

Section 226.17—General Disclosure Requirements

17(a) Form of Disclosures

Comment 17(a)(1)–5 would add four examples of "directly related" information. The first example relating to § 226.18(k)(1) would clarify the applicability of the § 226.18(k)(1) disclosure. For purposes of this disclosure, a minimum finance charge is considered a penalty. Some state laws prohibit creditors from charging to a penalty in the event of prepayment while permitting the creditor to charge a minimum charge. In this instance the creditor may state that a minimum finance charge will be imposed. The second example relating to § 226.18(k) would enable creditors to identify which finance charge triggered the § 226.18(k)(2) prepayment disclosure.

The example relating to § 226.18(f) responds to inquiries about disclosing the fact that a variable rate feature may produce negative amortization. It permits rate creditors to disclose this fact when making the other required variable rate disclosures. The last example would permit the inclusion of a title for the disclosure statement.

17(c) Basis of Disclosures and Use of Estimates

Comment 17(c)(1)–1 would be revised to clarify the meaning of the term "legal obligations." A sentence would be added to show the effect of certain previous court decisions on disclosure of the legal obligation, and the sentence discussing contracts later deemed unenforceable by a court would be modified to include situations in which an individual term, rather than an entire contract, is deemed unenforceable. Portions of comments 17(c)(1)–1 and 2 would be restructured for added clarity.

Comment 17(c)(1)–4 would be revised to clarify the treatment of certain buydown plans, including the Federal National Mortgage Association's Buydown Program, as revised for commitments issued on or after February 16, 1982.

A new comment 17(c)(1)–8 would be added to clarify the treatment of adjustable rate mortgages that contain a graduated payment feature or an initial payment amount resulting in negative amortization. This comment applies to mortgages such as the graduated payment adjustable mortgage loan authorized by the Federal Home Loan Bank Board (12 CFR 545.6–4b).

New comments 17(c)(3)–2 and 17(c)(4)–2 would be added to clarify that a creditor may ignore minor variations in calculating some disclosures without being required to ignore those variations in computing all of the disclosures.

17(d) Multiple Creditors; Multiple Consumers

Material that was inapprpriate for commentary treatment would be deleted from comment 17(d)–1.

17(h) Series of Sales—Delay in Disclosures

Comment 17(h)–2 would be added to address the content of disclosures for transactions under § 226.17(h).

17(i) Interim Student Credit Extensions

Comment 17(i)–1 would be amended to clarify the applicability of this provision. No substantive change would be made.

Comment 17(i)–2 would be revised to provide further guidance on the basis for interim student credit disclosures.

Comment 17(i)–5 would be added as a cross-reference to Appendix H, regarding approved disclosure forms.

Section 226.18—Content of Disclosures

18(f) Variable Rate

Comment 18(f)–2 would be amended to clarify that the disclosures in a variable-rate transaction are not considered estimates and should not be labelled as such.

Comment 18(f)–2 would be added to discuss the treatment of growth equity mortgages.

Comment 18(f)(3)–1 would be revised to include a cross-reference to comment 17(a)(1)–5, which permits the inclusion of a brief reference to negative amortization in the variable-rate disclosures.

A sentence would be added to comment 18(f)(4)–1 to clarify that the example may reflect an immediate increase only when the contract terms permit an immediate increase in the rate.

Comment 18(f)(4)–2 would contain additional examples of transactions that need not make the hypothetical disclosure required in most transactions by § 226.18(f)(4).

18(g) Payment Schedule

Comment 18(g)–1 would be revised to clarify that prepaid finance charges are not reflected in the payment schedule.

Comment 18(g)(2)–1 would be revised to clarify that the abbreviated disclosures may be employed when mortgage insurance premium payments gradually increase over a portion of the loan term. This will occur if the accrual rate exceeds the payment rate for a period and negative amortization causes the unpaid principal balance to increase. During this period, the amount of each premium payment will increase to insure the increasing principal balance. When negative amortization ends, the premiums will decrease in a traditional manner. The proposed language would permit the creditor to disclose the lowest and highest payments in the increasing series (with a reference to the variation in payments) followed by the highest and lowest payments in the decreasing series (with a reference to the variation in payments).

18(i) Demand Feature

Comment 18(i)–2 would be revised to clarify that a due-on-sale clause is not considered a demand feature requiring disclosure.

18(k) Prepayment

Comment 18(k)(1)–1 would be changed by the addition of the word "scheduled" to the first sentence. The change is to clarify that this disclosure applies not only to interest calculations made daily, but to calculations that are made other than daily while taking into account reductions in principal. A cross-reference to comment 17(a)(1)–5 would be added to point out the permitted reference to a minimum finance charge in the penalty disclosure.

Comment 18(k)(2)–1 would be revised to include a cross-reference to comment 17(a)(1)–5, which permits creditors to describe in the disclosure statement the type of finance charge subject to a rebate.

18(r) Required Deposit

A new comment 18(r)–2 would be added to address pledged account or FLIP mortgages, allowing creditors two options in disclosing those types of transactions.

Section 226.19—Certain Residential Mortgage Transactions

19(a) Time of Disclosure

Comment 19(a)–2 would be revised to conform with comment 17(a)(1)–5, regarding explanation of the basis for estimates.

Section 226.20—Subsequent Disclosure Requirements

20(a) Refinancings

The amendment to comment 20(a)–3 would clarify the current commentary position that the addition of a variable-rate feature to a previously fixed rate transaction requires new disclosures regardless of the manner in which the change is made. The remainder of comment 20(a)–3 discusses a variable-rate transaction for which no variable-rate disclosures were ever provided.

New comment 20(a)–5 would clarify the coverage of § 226.20(a). "Refinancing," as the term is used here, refers only to a new transaction undertaken with the original creditor (or a holder or service of the original obligation) to replace the original obligation. The term "refinancing" is sometimes used to refer to a loan, the proceeds of which are used in whole or in part to satisfy an obligation to a different creditor. Under the regulation, that is not a refinancing but a new transaction subject to the general coverage rules and disclosure requirements of the regulation.

20(b) Assumptions

The revisions to comments 20(b)–1 and 6 would clarify the coverage of § 226.20(b). The following elements must all be present before an assumption under this section requires new disclosures:

- The original obligation must have been a consumer credit obligation that was not originally exempt.
- The assumption must be accompanied by no significant change in terms (as described in comment 20(b)–6).
- The creditor must expressly agree to the new consumer as a primary obligor.
- The agreement must be in writing.
- The transaction must be a "residential mortgage transaction" as to the new consumer.

All of the above elements must be present in order to require assumption disclosures under § 226.20(b). An apparent assumption that has the first two elements but does not have all the remaining three requires no disclosures at all. However, an apparent assumption that fails to have one or both of the first two elements listed above is not subject to § 226.20(b). To determine if disclosures are required in that case, the creditor must analyze the transaction under §§ 226.2 and 226.3.

Section 226.22—Determination of the Annual Percentage Rate

22(a) Accuracy of the Annual Percentage Rate

A sentence would be added to comment 22(a)(1)–4 to provide an example of a composite annual percentage rate for a step-rate transaction.

Section 226.24—Advertising

24(b) Advertisement of Rate of Finance Charge

Comment 24(b)–2 would be added to clarify that stating the effective simple annual payment rate for any portion of the repayment period constitutes a statement of a rate of finance charge under that section, requiring that the annual percentage rate also be stated.

Appendix D—Multiple-Advance Construction Loans

Comment D–2 would be added to clarify that disclosure of a variable-rate hypothetical is not required for multiple-advance construction loans disclosed pursuant to Appendix D, part I. (See commment 18(f)(4)–2).

Comment D–3 would be added to clarify that the total of payments disclosure under Appendix D may be calculated as either the sum of the payments or as the amount financed plus the finance charge.

Comment D–4 would be added to make it clear that under Appendix D creditors may disclose an estimated APR computed under either the actuarial method or the Volume I method.

Appendix F—Annual Percentage Rate Computations for Certain Open-End Credit Plans

Comment F–1 would be added to cross-reference comment 14(d)–2. The latter comment discusses the annual percentage rate calculation methods for plans involving both daily periodic rates and specific transaction charges.

Appendix H—Closed-End Model Forms and Clauses

Comments H–17 and 18 would be added to reflect the approval under section 113 of the act of two student loan disclosure forms issued by the Department of Education in conjunction with the PLUS program.

List of Subjects in 12 CFR Part 226

Advertising; Banks, banking; Consumer protection; Federal Reserve System; Finance; Truth in lending; Penalties.

(3) *Text of proposal.* The proposed amendments to the Staff Interpretations in Supplement I read as follows: (New language is highlighted by boldfaced arrows, and language that is being deleted in highlighted by boldfaced brackets).

Supplement I—Official Staff Interpretations

Introduction * * *

3. *Status of previous interpretations.* All statements and opinions issued by the Federal Reserve Board and its staff interpreting previous Regulation Z remain effective until [April 1,] ►October 1,◄ 1982 only insofar as they interpret that regulation. When compliance with revised Regulation Z becomes mandatory on [April 1,] ►October 1,◄ 1982, the Board and staff interpretations of the previous regulation will be entirely superseded by the revised regulation and this commentary except with regard to liability under the previous regulation.
* * *

Subpart A—General * * *

Section 226.2—Definitions and Rules of Construction

2(a) Definitions * * *

2(a)(3) "Arranger of Credit" * * *

►6. *Real estate brokers.* The general definition does not include a person (such as a real estate broker or salesperson) when arranging for the seller of real property or a dwelling to finance its purchase in whole or in part, even if the obligation by its terms is simultaneously assigned by the seller to another person. However, a broker or salesperson is not exempt from coverage in all transactions. For example, a real estate broker may be a creditor in the following situations:

- The broker acts as a loan broker to arrange for someone other than the seller to extend credit, provided that the extender of credit (the person to whom the obligation is initially payable does not meet the "creditor" definition.
- The broker extends credit itself, provided that the broker otherwise meets the "creditor" definitions.◄
* * *

2(a)(13) "Consummation"

1. *State law governs.* When a contractual obligation on the consumer's part is created is a matter to be determined under applicable law; Regulation Z does not make this determination. ►Consummation occurs when, under state law, the consumer becomes contractually obligated to accept specific credit terms. A

contractual commitment agreement, for example, that binds the parties to specific credit terms would be consummation.◄ Consummation ►, however,◄ does not occur merely because the consumer had made some financial investment in the transaction (for example, by paying a nonrefundable fee) unless, of course, applicable law holds otherwise. * * *

2(a)(23) "Prepaid Finance Charge" * * *

2. *Examples.* Common examples of prepaid finance charges include:

- Buyer's points.
- Service fees.
- Loan fees.
- Finder's fees.
- Loan guarantee insurance.
- Credit investigation fees.

However, in order for these or any other finance charges to be considered prepaid, they must be either paid separately in cash or check or withheld from the proceeds. ►Prepaid finance charges include any portion of the finance charge paid at closing or settlement.◄ * * *

2(a)(24) "Residential Mortgage Transaction"

1. *Relation to other sections.* This term is important in [five] ►six◄ provisions in the regulation:

- Section 226.4(c)(7)—exclusions from the finance charge.
- Section 226.15(f)—exemption from the right of rescission.
- Section 226.18(q)—whether or not the obligation is assumable.
- Section 226.19—special timing rules.
- ►• Section 226.20(b)—disclosure requirements for assumptions.◄
- Section 226.23(f)—exemption from the right of rescission. * * *

2(a)(25) "Security Interest" * * *

2. *Exclusions.* The general definition of security interest excludes three groups of interests: Incidental interests, interests in after-acquired property, and interests that arise solely by operation of law. These interests may not be disclosed with the disclosures required under § 226.18, but the creditor is not precluded from preserving these rights elsewhere in the contract documents, or invoking and enforcing such rights, if it is otherwise lawful to do so. ►If the creditor is unsure whether a particular interest is one of the excluded interests, the creditor may, at its option, consider such interests as security interests for Truth in Lending purposes.◄ * * *

Section 226.4—Finance Charge * * *

4(b) Examples of Finance Charges * * *

Paragraph 4(b)(9) * * *

►3. *Determination of the regular price.* The "regular price" is critical in determining whether the difference between the price charged to cash customers and credit customers is a "discount" or a "surcharge," as these terms are defined in amended section 103 of the act. The "regular price" is generally the price displayed on the merchandise being sold. In the sale of motor vehicle fuel, for example, the regular price is the price displayed at the pump. As a result, the higher price (the open-end credit or credit card price) must be displayed at the pump, either alone or along with the cash price. A service station operator may display the cash price of fuel by itself on a curb sign, as long as the sign clearly indicates that the price is limited to cash purchases.◄ * * *

4(c) Charges Excluded from the Finance Charge * * *

Paragraph 4(c)(7)

1. *Real estate or residential mortgage transaction charges.* The list of charges in § 226.4(c)(7) applies both to residential mortgage transactions (which may include, for example, the purchase of a mobile home) and to other transactions secured by real estate. The fees are excluded from the finance charge even if the services for which the fees are imposed are performed by the creditor's employees rather than by a third party. In addition, credit report fees include not only the cost of the report itself, but also the cost of verifying information in the report. In all cases, the charges must be bona fide and reasonable. If a lump sum is charged for several services and includes a charge that is not excludable [(for example, a charge for a lawyer's attending the closing)], a portion of the total should be allocated to that service and included in the finance charge. ►A charge for a lawyer's attendance at the closing to insure that documents are completed and executed properly is excluded from the finance charge.◄

4(d) Insurance * * *

►11. *Initial term.* The initial term of insurance coverage determines the period for which a premium amount must be disclosed. In some cases the initial term is clear, for example, a property insurance policy on an automobile written for one year (even though the term of the credit transaction is four years) or a credit life insurance policy for the term of the credit transaction purchased by paying or financing a single premium. In other cases, however, it may not be clear what the initial term of the insurance is. If the creditor is unsure of the initial term of insurance coverage, the premium disclosed may be the premium for one year of insurance coverage. The premium must be clearly labeled as being for one year.◄

Section 226.5—General Disclosure Requirements

5(a) Form of Disclosures * * *

Paragraph 5(a)(2)

1. *When disclosures must be "more conspicous."* The terms "finance charge" and "annual percentage rate" ►, when required to be used with a number,◄ must be disclosed more conspicuously ►than other required disclosures,◄ [when required to be used with a number.] ►except in two cases as provided in footnote 9. First, the corresponding annual percentage rate under section 226.7(d) may be less conspicuous than disclosure of the actual annual percentage rate under § 226.7(g). Second, neither term need be more conspicuous than other required disclosures under § 226.16 in advertisements.◄ [For example, on the initial disclosure statement, the annual percentage rate disclosure under § 226.6(a)(2) must be "more conspicuous." The following apply to the "more conspicuous" rule:] ►At the creditor's option, "finance charge" and "annual percentage rate" may also be disclosed more conspicuously than the other required disclosures even when the regulation does not so require. The following examples illustrate these rules:

- On the initial disclosure statement, the disclosure for the annual percentage rate that corresponds to each periodic rate, required by § 226.6(a)(2), must be "more conspicuous" than other required disclosures
- If the plan involves a minimum finance charge, it must be disclosed on the initial disclosure statement more conspicuously than other required disclosures when accompanied by the amount of the finance charge.
- On the periodic statement, the disclosure of the amount of the finance charge, required by § 226.7(f), must be "more conspicuous" than other required disclosures.
- Although neither◄ [Neither term] ►"finance charge" nor "annual percentage rate"◄ need be emphasized when used as part of general informational material or in textual descriptions of other terms, [although] emphasis is permissible in such cases. For example, when the

terms appear as part of the explanations required under § 226.6(a)(3) and (4), they may be [as] ►equally◄ conspicuous as the disclosures required under §§ 226.6(a)(2) and 226.7(g).

[• The corresponding annual percentage rate under § 226.7(d) may be less conspicuous than the disclosure of the actual annual percentage rate (historical rate) under § 226.7(g) when the two rates differ. This is permitted by footnote 9 to § 226.5(a)(2), which excepts § 226.7(d) disclosures from the "more conspicuous" requirement.] * * *

5(b) Time of Disclosures

5(b)(1) Initial Disclosures

1. *Disclosure before the first transaction.* The rule that the initial disclosure statement must be furnished "before the first transaction" requires delivery of the initial disclosure statement before the consumer becomes obligated on the plan (for example, before the consumer makes the first purchase, receives the first advance, or pays a fee under the plan). [Delivery of the initial disclosure statement is timely even if a membership fee, advance, or purchase already has been posted to the consumer's account, so long as the consumer may, after receiving the disclosures, reject the plan and have no further obligation beyond returning a credit card or any money or goods.]

►• If the consumer pays a membership fee before receiving the Truth in Lending disclosures, or the consumer agrees to the imposition of a membership fee at the time of application and the Truth in Lending disclosure statement is not given at that time, disclosures are timely as long as the consumer, after receiving the disclosures, can reject the plan. The creditor must refund the membership fee, if it has been paid, or if it has been debited to the consumer's account, the creditor must clear the account.

If the consumer receives a cash advance check at the same time the Truth in Lending disclosures are provided, disclosures are still timely if the consumer can, after receiving the disclosures, return the cash advance check to the creditor without obligation (for example, without paying finance charges).

Initial disclosures need not be given before the imposition of an application fee under § 226.4(c)(1). If the consumer uses the account, pays a fee, or negotiates a cash advance check after receiving the disclosures, the creditor may consider the account not rejected for purposes of this section.◄ * * *

5(c) Basis of Disclosures and Use of Estimates

1. *Legal obligation.* The disclosures should reflect the credit terms to which the parties are legally bound at the time of giving the disclosures.

- The legal obligation is [normally] determined by applicable state or other law.
- The fact that a ►term or◄ contract may later be deemed unenforceable by a court on the basis of equity or other grounds does not, by itself, mean that disclosures based on that ►term or◄ contract did not reflect the legal obligation.
- The legal obligation normally is presumed to be contained in the contract that evidences the agreement. But this may be rebutted if another agreement between the parties legally modifies that contract.

* * *

5(d) Multiple Creditors; Multiple Consumers

1. *Multiple creditors.* Under § 226.5(d):

- Creditors must choose which of them will make the disclosures.
- A single, complete set of disclosures must be provided, rather than partial disclosures from several creditors.

[• Each creditor in the plan is legally responsible for seeing that the disclosures are provided.]

All disclosures for the open-end credit plan must be given, even if the disclosing creditor would not otherwise have been obligated to make a particular disclosure.

- In some open-end credit programs involving multiple creditors, the consumer has the option (for example, at the end of a billing cycle) to pay creditor A directly or to transfer to creditor B all or part of the amount owing. If the consumer elects the latter option, the consumer no longer is obligated to creditor A for the specific amount(s) transferred. In such a case, creditor A and creditor B may send separate periodic statements that reflect the separate obligations owed to each. * * *

Section 226.6—Initial Disclosure Statement * * *

Paragraph 6(a)(2) * * *

[2. *Variable-rate plan defined.* A variable-rate plan contemplates a series of rate changes in accordance with an index that is readily verifiable by the borrower and beyond the control of the lender (for example, the Treasury bill rate). A contract right to increase the rate upon any other contingency, or at the creditor's discretion, would not be a variable-rate plan. For example, an open-end credit plan in which the employee receives a lower rate contingent upon employment, with the rate to be increased upon termination of employment, would not be a variable-rate plan. Similarly, an open-end credit plan that provides for rate increases voted by the board of directors of a financial institution would not be a variable-rate plan.]

►2. *Variable-rate disclosures—coverage.* This section covers open-end credit plans under which rate changes are part of the plan and are tied to an index or formula. A creditor would use variable-rate disclosures (and thus be excused from the requirement of giving a change-in-terms notice when rate increases occur as disclosed) for plans involving rate changes such as the following:

- Rate changes that are tied to the rate the creditor pays on its 6-month money market certificates.
- Rate changes that are tied to treasury bill rates.
- Rate changes that are tied to changes in the creditor's commercial lending rate.

In contrast, the creditor's contract reservation to increase the rate without reference to such an index or formula (for example, a plan that simply provides that the creditor reserves the right to raise its rates) would not be considered a variable-rate plan for Truth in Lending disclosure purposes. Moreover, an open-end credit plan in which the employee receives a lower rate contingent upon employment (that is, with the rate to be increased upon termination of employment) is not a variable-rate plan.◄ * * *

6(b) Other Charges * * *

2. *Exclusions.* The following are examples of charges that are not "other charges":

- Fees charged for documentary evidence of transactions for income tax purposes.
- Amounts payable by a consumer for collection activity after default; attorney's fees, whether or not automatically imposed; foreclosure costs; post-judgment interest rates imposed by law; and reinstatement or reissuance fees.
- Premiums for voluntary credit life or disability insurance, or for property insurance, that are not part of the finance charge.
- Application fees under § 226.4(c)(1).

- A monthly service charge for a checking account with overdraft protection that is applied to all checking accounts, whether or not a credit feature is attached.

►• Charges for submitting as payment a check that is later returned unpaid. (See comment 4(c)(2)–2.)◄ * * *

Section 226.7—Periodic Statement * * *

7(b) Identification of Transactions

1. *Multifeatured plans.* In identifying transactions under § 226.7(b) [, transactions may be grouped by feature (such as by disclosing sale transactions separately from cash advance transactions) or may be arranged by date.] ► for multifeatured plans, creditors may, for example, choose to arrange transactions by feature (such as disclosing sale transactions separately from cash advance transactions) or in some other clear manner, such as by arranging the transactions in general chronological order.◄

7(c) Credits * * *

3. *Date.* [The crediting date need not be identified as "crediting date," unless two or more dates are disclosed for a single entry (for example, the posting date and the crediting date).] ► If only one date is disclosed (that is, the crediting date as required by the regulation), no further identification of that date is necessary. More than one date may be disclosed for a single entry, as long as it is clear which date represents the date on which credit was given. ◄ * * *

7(e) Balance on which Finance Charge Computed * * *

2. *Split rates applied to balance ranges.* If split rates were applied to a balance because different portions of the balance fall within two or more balance ranges, the creditor need not separately disclose the portions of the balance subject to such different rates since the range of balances to which the rates apply has been separately disclosed. For example, a creditor could disclose a balance of $700 for purchases even though a monthly periodic rate of 1.5 percent applied to the first $500, and a monthly periodic rate of 1 percent to the remainder. ► This does not apply when the finance charge is computed by applying the split rates to each day's balance. In that case, the balances must be disclosed using any of the options that are available if two or more daily rates are imposed. (See comment 7(e)–5).◄

Comment 7(e)–8 is redesignated as 7(e)–4.

[8. *Multifeatured plans.* In a multifeatured plan, the balance on which the finance charge was computed must be disclosed for each feature to which a period rate was applied. A total balance for the entire plan is optional.]

► 4. *Multifeatured plans.* In a multifeatured plan, the creditor must disclose a separate balance (or balances, as applicable) to which a periodic rate was applied for each feature or group of features subject to different periodic rates or different balance computation methods. Separate balances are not required, however, merely because a "free-ride" period is available for some features but not others. A total balance for the entire plan is optional. This does not affect how many balances the creditor must disclose—or may disclose—within each feature. (See, for example, comment 7(e)–5. ◄ * * *

Comment 7(e)–4 is redesignated as 7(e)–5.

5. *Daily rate on daily balance.* If the finance charge is computed on the balance each day by application of one or more daily periodic rates, the balance on which the finance charge was computed may be disclosed in any of the following ways for each feature:

- If a single daily periodic rate is imposed, the balance to which it is applicable may be stated as:

—A balance for each day in the billing cycle
—A balance for each day in the billing cycle on which the balance in the account changes
—The sum of the daily balances during the billing cycle.
—The average daily balance during the billing cycle, in which case the creditor shall explain that the average daily balance is or can be multiplied by the number of days in the billing cycle and the periodic rate applied to the product to determine the amount of the finance charge.

- If two or more daily periodic rates may be imposed, the balances to which the rates are applicable may be stated as:

—A balance for each day in the billing cycle
—A balance for each day in the billing cycle on which the balance in the account changes
—Two or more average daily balances, each applicable to the daily periodic rates imposed for the time that those rates were in effect, as long as the creditor explains that the finance charge is or may be determined by (1) multiplying each of the average balances by the number of days in the billing cycle, (or if the daily rate varied during the cycle, by multiplying by the number of days the applicable rate was in effect), (2) mutiplying each of the results by the applicable daily periodic rate, and (3) adding these products together. [If the different rates are due to disclosed ranges of balances (see comment 7(e)–2), the creditor need give only one average daily balance together with the additional information required by this paragraph.]

Comments 7(e)–5, 6, and 7 are redesignated as 7(e)–6, 7, and 8 respectively.

Comment 7(e)–8 is redesignated as 7(e)–4.

►9. *Use of one balance computation method explanation when multiple balances disclosed. Sometimes the creditor will disclose more than one balance to which a periodic rate was applied even though each balance was computed using the same balance computation method. In these cases, one explanation of the balance computation method is sufficient.*◄ * * *

7(g) Annual Percentage Rate * * *

2. *Multifeatured plans.* In a multifeatured plan, the actual annual percentage rate that reflects the finance charge imposed during the cycle may be separately stated for each feature [.]►, or may be described as a composite for the whole plan.◄ If separate rates are given, a composite annual percentage rate for the entire plan is optional.* * *

Section 226.8—Identification of Transactions. * * *

8(a) Sale Credit * * *

8(a)(3) Copy of Credit Document Not Provided—Creditor and Seller Not Same or Related Person(s) * * *

2. *Location of transaction.* The disclosure of the location where the transaction took place generally requires an indication of both the city, and the state or foreign country. If the [creditor] ►seller◄ has multiple stores or branches within that city, the creditor need not identify the specific branch at which the sale occurred. * * *

►4. *Date of transaction—foreign transactions.* In a foreign transaction, the debiting date may be considered the transaction date.◄ * * *

Section 226.9—Subsequent Disclosure Requirements * * *

9(c) Change in Terms

1. *"Changes" initially disclosed.* No notice of a change in terms need be

given if the specific change is set forth initially, such as: Rate increases under a properly disclosed variable-rate plan, a rate increase that occurs when an employee has been under a preferential rate agreement and terminates employment, or an increase that occurs when the consumer has been under an agreement to maintain a certain balance in a savings account in order to keep a particular rate and the account balance falls below the specified minimum. In contrast, notice must be given if the contract allows the creditor to increase the rate at its discretion but does not include specific terms for an increase (for example, when an increase may occur [by vote of the board of directors].] ► under the creditor's contract reservation right to increase the periodic rates.)◄ * * *

Section 226.13—Billing Error Resolution * * *

13(d) Rules Pending Resolution * * *

13(d)(1) Consumer's Right To Withhold Disputed Amount; Collection Action Prohibited * * *

2. *Right to withhold payment.* ►If the creditor is required to make the disclosure under footnote 30, the creditor may comply with that disclosure requirement by indicating that payment of any disputed amount is not required pending resolution. Making a disclosure that only refers to disputed amount would, of course, in no way affect the consumer's right under § 226.13(d)(1) to withhold related finance and other charges.◄ The disclosure [that payment of any disputed amount is not required pending error-resolution[under footnote 30◄ need not appear in any specific place on the periodic statement ►,◄ [and it] need not state the specific amount that the consumer may withhold [. The creditor] ►and◄ may ►be reprinted◄ [preprint] on [its] ►the◄ periodic statement ►.◄ [forms a statement that payment of any disputed amount is not required pending resolution.] * * *

Section 226.14—Determination of Annual Percentage Rate * * *

14(c) Annual Percentage Rate for Periodic Statements * * *

8. *Small finance charges.* Section 226.14(c)(4) gives the creditor an alternative to § 226.14(c)(2) and (c)(3) if small [(50 cents or less) minimum or fixed fees are involved.] ►finance charges (50 cents or less) are involved; that is, if the finance charge includes minimum or fixed fees not due to the application of a periodic rate and the total finance charge for the cycle does not exceed 50 cents.◄ For example, while a monthly activity fee of 50 cents on a balance of $20 would produce an annual percentage rate of 30 percent under the rule in § 226.14(c)(2), the creditor may disclose an annual percentage rate of 18 percent if the periodic rate generally applicable to all balances is 1½ percent per month. This option is consistent with the provision in footnote 11 to §§ 226.6 and 226.7 permitting the creditor to disregard the effect of minimum charges in disclosing the ranges of balances to which periodic rates apply.

►9. *Daily rate with specific transaction charge.* If the finance charge results from a charge relating to a specific transaction and the application of a daily periodic rate, see comment 14(d)–2 for guidance on the appropriate calculation methods.◄ * * *

14(d) Calculations Where Daily Periodic Rate Applied * * *

2. *Daily rate with specific transaction charge.* If the finance charge results from a charge relating to a specific transaction and the application of a daily periodic rate, the calculation method in ►§ 226.14(c)(3)◄ [§ 226.14(d)(2)] should be used. ►This requires a creditor to follow the rules in Appendix F in calculating the annual percentage rate, especially footnote 1 to Appendix F which addresses the daily rate/transaction charge situation by providing that the "average of daily balances" shall be used instead of the "sum of the balances."

Alternatively, the calculation method in § 226.14(d)(2) may be used. If this method is used, the creditor must also

- Apply the "without duplication" rule. (See comment 14(c)–5.)
- Disclose an annual percentage rate not less than the largest rate determined by multiplying each periodic rate imposed during the cycle by the number of periods in a year.◄ * * *

Section 226.15—Right of Rescission * * *

15(a) Consumer's Right To Rescind

Paragraph 15(a)(1) * * *

2. *Exceptions.* Although the consumer generally has the right to rescind with each transaction on the account, section 125(e) of the act provides an exception: until [March 31, 1985,] ►September 30, 1985◄ the creditor need not provide the right to rescind at the time of each credit extension made under an open-end credit plan secured by the consumer's principal dwelling to the extent that the credit extended is in accordance with a previously established credit limit for the plan. ►This limited rescission option is available whether or not the plan existed prior to the effective date of the act.◄ The consumer will have the right to rescind each extension made after [March 31, 1985] ►September 30, 1985◄ under such a secured open-end credit plan, whether that plan was established before or after that date. * * *

Section 226.16—Advertising * * *

16(b) Advertisement of Terms That Require Additional Disclosures * * *

►6. *Minimum, fixed, transaction, activity or similar charge.* The charges to be disclosed under § 226.16(b)(1) are those that are considered finance charges under § 226.4.◄ * * *

Subpart C—Closed-End Credit

Section 226.17—General Disclosure Requirements

17(a) Form of Disclosures

Paragraph 17(a)(1) * * *

5. *Directly related.* The segregated disclosures may, at the creditor's option, include any information that is directly related to those disclosures. Directly related information includes, for example, the following:

- A description of a grace period after which a late payment charge will be imposed. For example, the disclosure given under § 226.18(l) may state that a late charge will apply to "any payment received more than 15 days after the due date."
- A statement that the transaction is not secured. For example, the creditor may add a category labelled "unsecured" or "not secured" to the security interest disclosures given under § 226.18(m).
- The basis for any estimates used in making disclosures. For example, if the maturity date of a loan depends solely on the occurrence of a future event, the creditor may indicate that the disclosures assume that event will occur at a certain time.
- The conditions under which a demand feature may be exercised. For example, in a loan subject to demand after five years, the disclosures may state that the loan will become payable on demand in five years.
- When a variable rate feature is disclosed on other documents under footnote 43 to § 226.18(f), a reference to the variable rate feature and/or to other documents on which the variable rate disclosures are made.
- An explanation of the use of pronouns or other references to the parties to the transaction. For example, the

disclosures may state, " 'You' refers to the customer and 'we' refers to the creditor."

- Instructions to the creditor or its employees on the use of a multiple-purpose form. For example, the disclosures may state, "Check box if applicable."
- ►• A statement that the borrower will pay a minimum finance charge upon prepayment. For example, when state law prohibits penalties for prepayment, the creditor may make the § 226.18(k)(1) disclosure by stating "You will be charged a minimum finance charge."
- Identification of the finance charge that is subject to a rebate. For example, the disclosure given under § 226.18(k)(2) may state that the borrower "will not be entitled to a refund of the prepaid finance charge."
- A brief reference to negative amortization in variable-rate transactions. For example, in the variable-rate disclosure, the creditor may include a short statement such as "Unpaid interest will be added to principal."
- A brief caption identifying the disclosures. For example, the disclosures may bear a general title such as "Federal Truth in Lending Disclosures" or a descriptive title such as "Real Estate Loan Disclosures.◄

* * *

17(c) Basis of Disclosures and Use of Estimates

Paragraph 17(c)(1)

1. *Legal obligation.* The disclosures should reflect the credit terms to which the parties are legally bound at the outset of the transaction.► The legal obligation is determined by applicable state law or other law. (Certain transactions are specifically addressed in this commentary. See, for example, the discussion of buydown transactions elsewhere in the commentary to § 226.17(c).)◄

[• The legal obligation is normally determined by applicable state or other law, but certain transactions are specifically addressed in this commentary. (See, for example, the discussion of buydown transactions elsewhere in the commentary to § 226.17(c).)]

►• It is not a violation of the regulation for a creditor, in disclosing the legal obligation, to omit the disclosure of a term that a court with jurisdiction over the creditor has previously deemed unenforceable on the basis of equity or other grounds.◄

- The fact that a [credit] ►term or◄ contract may later be deemed unenforceable by a court on the basis of equity or other grounds does not, by itself, mean that disclosures based on that ►term or◄ contract did not reflect the legal obligation.

[• The legal obligation normally is presumed to be contained in the note or contract that evidences the agreement. But this presumption is rebutted if another agreement between the parties legally modifies that note or contract.]

2. *Modification of obligation.* ►The legal obligation normally is presumed to be contained in the note or contract that evidences the agreement. But this presumption is rebutted if another agreement between the parties legally modifies that note or contract.◄ If the parties informally agree to a modification of the legal obligation, the modification should not be reflected in the disclosures unless it rises to the level of a change in the terms of the legal obligation. For example:

- If the creditor-employer offers a preferential employee rate, the disclosures should reflect the terms of the legal obligation. (See the commentary to § 226.18(f) for ►an example of a preferred-rate employee transaction that is a variable-rate transaction.)◄ [a discussion of whether employee transactions are variable-rate transactions.)]
- If the contract provides for a certain monthly payment schedule but payments are made on a voluntary payroll deduction plan or an informal principal-reduction agreement, the disclosures should reflect the schedule in the contract.
- If the contract provides for regular monthly payments but the creditor informally permits the consumer to defer paymens from time to time, for instance, to take account of holiday seasons or seasonal employment, the disclosures should reflect the regular monthly payments. * * *

4. *Consumer buydowns.* In certain transactions, the consumer may pay an amount to the creditor to reduce the paymens of [buy down the] ►obtain a lower◄ interest rate on the transaction. Consumer buydowns must be reflected in the disclosures given for that transaction. To illustrate, in a mortgage transaction, the creditor and consumer agree to a note specifying a 14 percent interest rate. However, in a separate document, the consumer agrees to pay [four points] ►an amount◄ to the creditor at consummation in return for a reduction in the interest rate to 12 percent for a portion of the mortgage term. ►The amount paid by the consumer may be deposited in an escrow account or may be retained by the creditor. Depending upon the buydown plan, the consumer's prepayment of the obligation may or may not result in a portion of the amount being credited or refunded to the consumer.◄ In the disclosures given for the mortgage, the creditor must reflect the terms of the buydown agreement. For example:

- The [four points are] ►amount paid by the consumer is a◄ prepaid finance charge [s] (even if deposited in an escrow account).
- A composite annual percentage rate must be calculated, taking into account both interest rates, as well as the effect of the prepaid finance charges.
- The payment schedule must reflect the multiple payment levels resulting from the buydown. * * *

►8. *Graduated payment adjustable rate mortgages.* These mortgages involve both a variable interest rate and scheduled variations in payment amounts during the loan term. Under these plans, a series of graduated payments may be scheduled before rate adjustments affect payment amounts, or the initial scheduled payment may remain constant for a set period before rate adjustments affect the payment amount. In either case, however, the initial payment amount is insufficient to cover the scheduled interest, causing negative amortization from the outset of the transaction. In these transactions, the disclosures are as follows:

- The finance charge includes the amount of negative amortization based on the assumption that the rate in effect at consummation remains unchanged.
- The amount financed does not include the amount of negative amortization, but includes only the amount of funds advanced to the consumer at the beginning of the loan term.
- As in any variable-rate transaction, the annual percentage rate is based on the terms in effect at consummation.
- The schedule of payments discloses the amount of any scheduled initial payments followed by an adjusted level of payments based on the initial interest rate. Since some mortgage plans contain limits on the amount of the payment adjustment, the payment schedule may need to contain several different levels of payments, even with the assumption that the original interest rate does not increase.◄

* * *

Comments 17(c)(1)–8 and 9 are redesignated 17(c)(1)–9 and 10, respectively.

Paragraph 17(c)(3) * * *

►2. *Use of special rules.* A creditor may utilize the special rules in §226.17(c)(3) for purposes of calculating and making all disclosures for a transaction or may, at its option, use the special rules for some disclosures and not others.◄

Paragraph 17(c)(4) * * *

►2. *Use of special rule.* A creditor may take advantage of this special rule for purposes of calculating and making some disclosures but may elect not to do so for all of the disclosures. For example, the variations may be ignored in calculating and disclosing the annual percentage rate but taken into account in calculating and disclosing the finance charge and payment schedule.◄ * * *

17(d) Multiple Creditors; Multiple Consumers

1. *Multiple creditors.* If a credit transaction involves more than one creditor:

- The creditors must choose which of them will make the disclosures.
- A single,complete set of disclosures must be provided, rather than partial disclosures from several creditors.
- [Each creditor in the transaction is legally responsible for seeing that the disclosures are provided.]
- All disclosures for the transaction must be given, even if the disclosing creditor would not otherwise have been obligated to make a particular disclosure. For example, if one of the creditors is the seller, the total sale price disclosure under §226.18(j) must be made, even though the disclosing creditor is not the seller.* * *

17(h) Series of Sales—Delay in Disclosures * * *

►2. *Basis of disclosures.* Creditors have flexibility in structuring disclosures for a series of sales under §226.17(h). For example, the total sale price may be computed as the cash price for the sale plus that portion of the finance charge and other charges applicable to that sale.◄

17(i) Interim Student Credit Extensions

1. *Definition.* Student credit plans involve extensions of credit for education purposes where the repayment amount and schedule are not known at the time credit is advanced. ►These plans include, for example, loans made under the Guaranteed Student Loan program, the PLUS program or any other student credit plan where the repayment period does not begin immediately.◄ Creditors in interim student credit extensions need not disclose the terms set forth in this paragraph at the time the credit is actually extended but must make complete disclosures at the time the creditor and consumer agree upon the repayment schedule for the total obligation. At that time, a new set of disclosures must be made of all applicable items under §226.18.

2. *Basis of disclosures.* The disclosures given at the time of execution of the interim note should reflect two annual percentage rates, one for the interim period and one for the repayment period. ►The disclosures should not be labelled as estimates. Any portion of the finance charge, such as statutory interest, that is attributable to the interim period and is paid by the student (either as a prepaid finance charge, periodically during the interim period, in one payment at the end of the interim period, or capitalized at the beginning of the repayment period) must be reflected in the interim annual percentage rate.◄ Interest subsidies, such as payments made by either a state or the federal government on an interim loan, must be excluded in computing the annual eprcentage rate on the interim obligation, when the consumer has no contingent liability for payment of those amounts. [A loan guarantee fee that is paid separately by the student at the outset or withheld from the proceeds of the loan is a prepaid finance charge.] ►Any finance charges that are paid separately by the student at the outset or withheld from the proceeds of the loan are prepaid finance charges. An example of this type of charge is the loan guarantee fee.◄ [That sum] ►The sum of the prepaid finance charges◄ is deducted from the loan proceeds to determine the amount financed and included in the calculation of the finance charge.* * *

►5. *Approved student credit forms.* See the commentary to Appendix H regarding disclosure forms approved for use in certain student credit programs.◄ * * *

Section 226.18—Content of Disclosures * * *

18(f) Variable Rate * * *

2. *Basis for disclosures.* For transactions subject to the requirements of § 226.18(f), the disclosures must be given for the full term of the transaction and must be based on the terms in effect at the time of consummation. ►The disclosures, although subject to change, are not estimates and should not be labelled as such.◄ However, in a variable-rate transaction with either a seller buydown that is reflected in the credit contract or a consumer buydown, disclosures should not be based solely on the initial terms. In those transactions, the disclosed annual percentage rate should be a composite rate based on the lower rate for the buydown period and the rate that is the basis of the variable rate feature for the remainder of the term. (See the commentary to § 226.17(c) for a discussion of buydown transactions.) * * *

►6. *Growth equity mortgages.* Also referred to as payment escalated mortgages, these mortgage plans involve scheduled payment increases, rather than interest rate increases. The initial payment amount is determined for a long-term loan with a fixed interest rate. The rate remains constant, but payment increases are scheduled annually, based on a percentage of a given index. Because the interest rate remains constant and additional amounts are not required to pay off increased interest, the larger payments result in accelerated amortization of the loan. In disclosing these mortgage plans, creditors may either estimate the amount of payment increases, based on the best information reasonably available, or may disclose by analogy to the variable rate disclosures. Using the latter option, creditors would indicate that the payments are subject to increase, describe the circumstances under which the payments would increase, together with limitations on the increase, and provide an example of the increase. (This discussion does not apply to growth equity mortgages in which the amount of payment increases can be accurately determined at the time of disclosure. For these mortgages, as for graduated payment mortgages, disclosures should reflect the scheduled increases in payments.)◄ * * *

Paragraph 18(f)(3)

1. *Effects.* Disclosure of the effect of an increase refers to an increase in the number or amount of payments or an increase in the final payment. ►In addition, the creditor may make a brief reference to negative amortization that may result from a rate increase. (See comment 17(a)(1)–5 regarding directly related information.)◄ If the effect cannot be determined, the creditor must provide a statement of the possible effects. For example, if the exercise of the variable-rate feature may result in either more or larger payments, both possibilities must be noted.

Paragraph 18(f)(4)

1. *Hypothetical example.* The example may, at the creditor's option, appear apart from the other disclosures. The

creditor may provide either a standard example that represents the general type of credit offered by that creditor or an example that directly reflects the terms and conditions of the particular transaction. ►(The example, whether general or specific, should not reflect an immediate increase if the contract does not permit an immediante increase.)◄

[2. *Demand obligations.* In demand obligations with no alternate maturity date, the creditor need not provide a hypothetical example.]

►2. *Hypothetical example not required.* The creditor need not provide a hypothetical example in the following transactions with a variable rate feature:

- Demand obligations with no alternate maturity date.
- Interim student credit extensions.
- Multiple advance construction loans disclosed pursuant to Appendix D, Part I.◄

18(g) Payment Schedule

1. *Amounts included in repayment schedule.* The repayment schedule should reflect all components of the finance charge, not merely the portion attributable to interest. ►Prepaid finance charges, however, should not be shown in the repayment schedule.◄ The payments may include amounts beyond the amount financed and finance charge. For example, the disclosed payments may, at the creditor's option, reflect certain insurance premiums where the premiums are not part of either the amount financed or the finance charge, as well as real estate escrow amounts such as taxes added to the payment in mortgage transactions. * * *

Paragraph 18(g)(2)

1. *Abbreviated disclosure.* The creditor may disclose an abbreviated payment schedule when the amount of each regularly scheduled payment (other than the first or last payment) includes an equal amount to be applied on principal and a finance charge computed by application of a rate to the decreasing unpaid balance. This option is also available when mortgage-guarantee insurance premiums, paid either monthly or annually, cause variations in the amount of the scheduled payments, reflecting the continual decrease ►or increase◄ in the premium due. The creditor using this alternative must disclose the dollar amount of the highest and lowest payments and make reference to the variation in payments. * * *

18(i) Demand Feature * * *

2. *Covered demand features.* The type of demand feature triggering the disclosures required by § 226.18(i) includes only those demand features contemplated by the parties as part of the legal obligation. For example, this provision does not apply to transactions that convert to a demand status as a result of the consumer's default. ►A due-on-sale clause is not considered a demand feature.◄ * * *

18(k) Prepayment * * *

Paragraph 18(k)(1)

1. *Penalty.* This applies only to those transactions in which the interest calculation takes account of each ►scheduled◄ reduction in principal. The term "penalty" as used here encompasses only those charges that are assessed strictly because of the prepayment in full of a simple-interest obligation, as an addition to all other amounts. Items which are not penalties include, for example:

- Prepaid finance charges collected at the outset of the transaction, such as points in a mortgage loan.
- Loan guarantee fees.
- Interim interest on a student loan.

However, a minimum finance charge is a penalty in a simple-interest transaction. ►(See comment 17(a)(1)–5 regarding the disclosure of a minimum finance charge as directly related information.)◄

Paragraph 18(k)(2)

1. *Rebate of finance charge.* This applies to any finance charges that do not take account of each reduction in the principal balance of an obligation. This category includes, for example:

- Precomputed finance charges such as add-on charges.
- Charges that take account of some but not all reductions in principal, such as mortgage guarantee insurance assessed on the basis of an annual declining balance, when the principal is reduced on a monthly basis.
- Prepaid finance charges, such as points or loan fees collected at the outset of the transaction.

►The creditor may identify the finance charge that is subject to a rebate. (See comment 17(a)(1)–5 regarding directly related information.)◄ No description of the method of computing earned or unearned finance charges,◄, however,◄ is required or permitted as part of the segregated disclosures under this section, although such information may be provided elsewhere in the contract. * * *

18(r) Required Deposit * * *

►2. *Pledged account mortgages.* In these transactions, a consumer pledges as collateral funds that the consumer deposits in an account held by the creditor. The creditor withdraws sums from this account to supplement the consumer's monthly payments. Creditors may treat these pledged accounts as required deposits (unless the accounts are excepted under footnote 45) or they may treat them as consumer buydowns in accordance with comment 17(c)(1)–4.◄ * * *

Comments 18(r)–2, 3, 4, and 5 are redesignated 18(r)–3, 4, 5, and 6, respectively.

Section 226.19—Certain Residential Mortgage Transactions

19(a) Time of Disclosure * * *

2. *Timing and use of estimates.* Truth in Lending disclosures must be given (a) before consummation or (b) within three business days after the creditor receives the consumer's written application, whichever is earlier. The three-day period for disclosing credit terms coincides with the time period within which creditors subject to RESPA must provide good faith estimates of settlement costs. If the creditor does not know the precise credit terms, the creditor must base the disclosures on the best information reasonably available and indicate that the disclosures are estimates under § 226.17(c)(2). If many of the disclosures are estimated, the creditor may include a statement to that effect (such as "all numerical disclosures except the late-payment disclosure are estimates") instead of separately labelling each estimate. In the alternative, the creditor may label as an estimate only the items primarily affected by unknown information. (See the commentary to § 226.17(c)(2).) The creditor may provide explanatory material concerning the estimates and the contingencies that may affect the actual terms [, either on a separate document or on the same document (but separate from the required disclosures).] ►in accordance with comment 17(a)(1)–5.◄ * * *

Section 226.20—Subsequent Disclosure Requirements

20(a) Refinancings * * *

3. *Variable rate.* ►Even if it is not accomplished by the cancellation of the old obligation and substitution of a new one, the addition of a variable-rate feature to an obligation is a new transaction requiring new disclosures.◄ If a variable-rate feature was properly disclosed under the regulation, a rate change in accord with those disclosures is not a refinancing. For example, a renegotiable rate mortgage that was

disclosed as a variable-rate transaction is not subject to new disclosure requirements when the variable-rate feature is invoked. However, if the variable-rate feature was not previously disclosed, a later change in the rate results in a new transaction subject to new disclosures. * * *

►5. *Coverage.* Section 226.20(a) applies only to refinancings undertaken by the original creditor or a holder or servicer of the original obligation. A "refinancing" by any other person is a new transaction under the regulation, not a refinancing under this section.◄ * * *

20(b) Assumptions

1. *General definition.* An assumption as defined in § 226.20(b) is a new transaction and new disclosures must be made to the subsequent consumer. An assumption under the regulation requires the following three elements:

- A residential mortgage transaction.
- An express acceptance of the subsequent consumer by the creditor.
- A written agreement.

►The assumption of a non-exempt consumer credit obligation with no change in terms requires no disclosures unless all three elements are present.◄ * * *

6. *Change in terms.* [A change in terms destroys the existing obligation and the transaction is treated as a new transaction under the regulation, not as an assumption. A change in terms includes, for example:] ►In order to be covered or excluded by § 226.20(b), the assumption must involve no significant change in the terms of the existing obligation. If the adoption of the obligation by a new obligor is accompanied by a significant change in terms, whether and when disclosures must be given are governed by the general requirements for a new transaction, not by § 226.20(b). Significant changes in terms include, for example:◄

- A change in the contract interest rate unless the change is in accordance with a variable-rate feature that was properly disclosed in the existing obligation.
- A change in the length of the term.
- The addition of points.

►Insignificant changes in terms◄ [Minor changes that do not destroy the existing obligation] include, for example.

- Assumption fees for processing loan documents.
- Insurance fees.
- Credit report fees. * * *

Section 226.22—Determination of the Annual Percentage Rate

22(a) Accuracy of the Annual Percentage Rate

Paragraph 22(a)(1) * * *

4. *Basis for calculations.* When a transaction involves "step rates" or "split rates"—that is, different rates applied at different times or to different portions of the principal balance—a single composite annual percentage rate must be calculated and disclosed for the entire transaction. ►Assume, for example, a $10,000 loan repayable in 5 years at 10 percent interest for the first 2 years, 12 percent for years 3 and 4, and 14 percent for year 5. The monthly payments are $210.71 during the first 2 years of the term, $220.25 for years 3 and 4, and $222.59 for year 5. The composite annual percentage rate, using a calculator with a "discounted cash flow analysis" or "internal rate of return" function, is 10.75 percent.◄ * * *

Section 226.24—Advertising * * *

24(b) Advertisement of Rate of Finance Charge * * *

►2. *Rate of finance charge.* An advertisement may not state an effective rate or payment rate applicable to only a portion of the term of the transaction unless the annual percentage rate is also stated. For example, an advertisement that states "qualify at 10½%" or "an effective first year interest rate of 10½%" generally shows only a portion of the rate of finance charge that actually accrues during the early years of the term; the advertised annual percentage rate that must accompany this rate must take into account the interest that will accrue but not be paid during this period. On the other hand, since an advertisement that states "financing available at 3½% below prime" does not state a specific rate or portion of the finance charge, § 226.24(b) does not apply and the annual percentage rate is not a required disclosure.◄ * * *

Comments 24(b)–2 and 3 are redesignated 24(b)–3 and 4, respectively. * * * * * *

Appendix D—Multiple-Advance Construction Loans * * *

►2. *Varriable-rate construction loans.* The hypothetical disclosure required in most variable-rate transactions by § 226.18(f)(4) is not required for multiple-advance construction loans disclosed pursuant to Appendix D, Part I.

3. *Calculation of the total of payments.* When disclosures are made pursuant to Appendix D, the total of payments may reflect either the sum of the payments or the sum of the amount financed and the finance charge.

4. *Annual percentage rate.* Appendix D does not require the use of Volume I of the Board's Annual Percentage Rate Tables for calculation of the annual percentage rate. Creditors utilizing Appendix D in making calculations and disclosures may use other computation tools to determine the estimated annual percentage rate, based on the finance charge and payment schedule obtained by use of the appendix.◄ * * *

Appendix F—Annual Percentage Rate Computations for Certain Open-End Credit Plans

►1. *Daily rate with specific transaction charge.* If the finance charge results from a charge relating to a specific transaction and the application of a daily periodic rate, see comment 14(d)–2 for guidance on the appropriate calculation methods.◄ * * *

Appendix H—Closed-End Model Forms and Clauses * * *

►17. *ED–876 1/82.* Pursuant to section 113(a) of the amended Truth in Lending Act, Form ED–876 1/82, issued by the U.S. Department of Education for certain student loans, has been aproved. The form may be used for all PLUS loans when there is no deferment before the borrower begins repayment of both principal and interest. The form may also be used for PLUS loans when the borrower qualifies for a deferment of principal payments and the annual percentage rate to be disclosed is calculated taking account of the irregular payment schedule. The form may also be used for consolidation of previous PLUS loans, whether or not the borrower had a deferment of principal payments under the earlier loans. The following changes may be made to the form:

- Reducing the size of the form.
- Adding lines to the payment schedule disclosure.
- Deleting inapplicable disclosures by whiting out, blocking out, filling in "N/A" (not applicable) or "0," crossing out, leaving blanks, or circling applicable items.

18. *ED–876A 4/82.* Pursuant to section 113(a) of the amended Truth in Lending Act, Form ED–876A 4/82, issued by the U.S. Department of Education for certain student loans, has been approved. This form may be used for all PLUS loans where the borrower qualifies for an immediate deferment of principal payments under the terms of the note. (See the commentary to § 226.17(i) for the basis of disclosures.) The following changes may be made to the form:

- Reducing the size of the form.
- Deleting inapplicale disclosures by whiting out, blocking out, fillng in "N/A" (not applicable) or "0," crossing out, leaving blanks, or circling applicable items.◄ * * *

* * * * *

Board of Governors of the Federal Reserve System, May 6, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-12978 Filed 5-12-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 82-324]

Amendments Relating to Change in Control

May 6, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") proposes to amend its regulations concerning changes in the control of savings and loan stock institutions and savings and loan institution holding companies. Several revisions are proposed. First, the presumption of control would be limited to transactions where a person would acquire the power to vote 10 percent or more of any class of voting securities of an insured institution which has voting securities that are registered under the Securities Exchange Act of 1934 (the "1934 Act") and that are actively traded. Second, notification of a subject institution of the filing of a notice of a proposed change in control ("Notice"), or of the filing of a rebuttal to the presumption of control, would be eliminated. Third, a Notice would not be disclosed to the public, except upon the consent of the acquiring person, consummation of the transaction, disapproval of the proposed acquisition, or when the Notice otherwise becomes public. Fourth, except with respect to disapproval of a Notice, the Director of the Office of Examinations and Supervision with the concurrence of the General Counsel, or their designees, would have delegated authority to take action under the regulations with regard to any institution or holding company which has a class of voting securities registered under the 1934 Act, and the Principal Supervisory Agent would have delegated authority with regard to any institution or holding company which does not have a class of voting securities registered under the 1934 Act. Fifth, provisions regarding the period of review and any additional information required to be filed with a Notice would be clarified. The proposed amendments are intended to lessen the regulatory burden on acquiring persons and to facilitate more efficient review procedures.

DATE: Comments must be received by: July 6, 1982.

ADDRESS: Send comments to Director, Information Services, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: John P. Harootunian, Attorney, Office of General Counsel, (202) 377-6415, at the above address.

SUPPLEMENTARY INFORMATION:

Background

The Change in Savings and Loan Control Act of 1978 ("Control Act"), Title VII of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, effective March 10, 1979, amended Section 407 of the National Housing Act (12 U.S.C. 1730(q)) to require persons who intend to acquire control of a savings and loan stock institution, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC"), or a savings and loan institution holding company, as defined in Section 408 of the National Housing Act (12 U.S.C. 1730a), (each referred to as an "insured institution" or "institution"), to give the FSLIC at least 60 days' prior written Notice. The FSLIC is authorized by the Control Act to disapprove any such proposed acquisition on certain specified grounds. To implement the Control Act, temporary regulations substantially similar to those adopted by the bank regulatory agencies under the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)) were adopted by the Board, as the operating head of the FSLIC, on February 7, 1979 (44 FR 10500, February 12, 1979). After considering public comments and other information, the Board adopted permanent regulations on August 15, 1980 (45 FR 55693, August 21, 1980). After having had over three years' experience in administering the Control Act, the Board has determined to propose certain revisions to its regulations relating to changes in the control of stock institutions (12 CFR 563.18-2).

Presumption of Control

The Control Act requires 60 days' prior written Notice to the FSLIC whenever a person proposes to acquire control of an insured institution through the purchase, assignment, transfer pledge or other disposition of the institution's voting stock. Control is defined in the Control Act as "the power, directly or indirectly, to direct the management or policies of an insured institution or to vote 25 per centum or more of any class of voting securities of an insured institution."

Under § 563.18-2(c)(2) of the Board's current regulations, a rebuttable presumption or the power to direct the management or policies of an insured institution is raised whenever a person would acquire the power to vote 10 percent or more of any class of voting securities and (1) the institution has at least $250 million in assets and any class of voting securities held of record by 1200 or more persons, or (2) the person, after the acquisition, would hold the largest portion, or an amount equal to the largest shareholder's portion, of any class of voting stock.

The Board proposes that the first criterion of the presumption be revised to limit its application to those situations where a Notice can currently be justified. The Board believes that the nature and extent of the actual trading market activity in an insured institution's voting securities provides a better criterion than the current one of asset size and number of shareholders for determining when a 10-percent acquisition should raise a presumption of a change in control. The proposed amendment would limit the 10-percent presumption to those insured institutions which have voting securities that are registered under the 1934 Act and that are actively traded. The term "actively traded" is defined in the proposed amendments as securities that are traded either on a securities exchange or over-the-counter and quoted on NASDAQ. The term "NASDAQ" is defined as the electronic inter-dealer quotation system owned and operated by NASDAQ, Inc., a subsidiary of the National Association of Security Dealers, Inc.

The Board also proposes to delete the second criterion of the presumption, *i.e.*, where the person proposing to acquire 10 percent or more of an insured institution's voting securities would become the largest holder, or equal to the largest holder, of any class of voting stock. Again, the Board believes that when there is no active public trading market for an insured institution's securities, the statutory 25-percent definition of control provides an adequate basis for determining when a Notice should be filed. Absent a raised presumption, the proposed amendments

would provide that transactions resulting in a person's control of less than 25 percent of a class of voting securities of an insured institution would not result in control for purposes of the Control Act.

Rebuttal of Presumption

The Board's regulations provide in § 563.18–2(c)(3) that any acquiring person may request the opportunity to rebut the presumption of control by presenting his views in writing or orally before the FSLIC's designated representatives either at an "informal conference discussion" or an "informal presentation of evidence". However, experience has indicated that a written submission is the most equitable and efficient procedure for considering a rebuttal and for making a record of the issues raised. Therefore, the proposed amendments provide that any rebuttal by an acquiring person must be submitted in writing and that an additional oral presentation would be considered when appropriate. References to an "informal conference discussion" and to an "informal presentation of evidence" are deleted in the proposed regulations. It is also proposed that the acquring person be notified in writing regarding the FSLIC's determination of whether the presumption has been rebutted. While it is the current practice to issue a written decision, the present regulation only requires that notice of a decision be released.

Transactions Exempt From Notice

The Board proposes to clarify the present exemption for pro rata stock dividends resulting in the power to vote 25 percent of a class of voting securities. To avoid any ambiguity for a resulting 10-percent holder of an actively traded security, all pro rata stock dividends are exempted under the proposed amendments. Also, an additional exemption is proposed for customary one-time proxy solicitations. Both of these revisions are proposed to be made in § 563.18–2(d)(1).

Notification to Insured Institutions

The Board's current regulations require the FSLIC to notify the subject insured institution of the filing of a rebuttal of the presumption of control or the filing of a materially complete Notice, and provide that the institution may submit written comments to the Board. In adopting these regulations, the Board accepted the rationale that notification of the insured institution was necessary since (1) the institution is charged with the responsibility of informing its stockholders and the marketplace of important events which may affect its operations, and (2) the institution could provide information about an acquiring person not available from other sources. However, the Board's experience has indicated that notification of insured institutions is not necessary and that in certain situations it may have an adverse effect on the stockholders.

While an insured institution has a responsibility to inform its stockholders and the marketplace of a transaction which may have a material effect on its financial condition or operations, that obligation generally is triggered by the occurrence of the transaction and not by the intention to enter into it. Therefore, the mere filing of a Notice by an acquiring person would generally not create any obligation on behalf of the subject insured institution. The Board notes, however, that when a Notice relates to a proposed tender offer, the filing of the Notice may subject the acquiring person to certain additional requirements under the 1934 Act if the Notice were made public.

Although notification allows an insured institution to provide additional information to the Board in connection with its review of a rebuttal or a Notice, the Board believes that this benefit may be outweighed by its potential to inhibit acquisitions. The receipt of a Notice by the subject insured institution could cause management to initiate action which could effectively bar or significantly increase the expense of an acquisition which may be in the interest of the institution's shareholders. Moreover, the release of information regarding the proposed acquisition of an insured institution's securities could materially affect the public trading price of the securities prior to Board review of the proposed transaction.

These results were not intended under the Control Act. Therefore, the proposed amendments delete all provisions relating to notification by the FSLIC of a subject insured institution and to an institution's opportunity to comment on a proposed acquisition. Because of these revisions, the Board also proposes to delete the current § 563.18–2(*l*) supervisory case exception to any such right to notification and comment.

Disclosure

The proposed amendments would delete the current provision in § 563.18–2(e)(4) that non-confidential information in a Notice shall be available for public viewing upon filing. The Control Act does not impose a requirement that a Notice be made public upon filing. Because the public disclosure of a Notice may prematurely and materially affect the public trading market in the stock of the subject insured institution, and inhibit proposed acquisitions, neither of which consequences were intended by the Control Act, the Board believes that a Notice should be confidential until such time as definitive action has been taken with respect to the Notice. Therefore, the Board proposes that no portion of a Notice would be made public except in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), and the Board's regulations adopted thereunder (12 CFR Parts 505 and 505a).

The proposed regulations specifically provide in § 563.18–2(f) that a Notice is for the information of the FSLIC and any appropriate State supervisory agency and is not available to the public except under certain conditions. Public disclosure may be made of any portion of a Notice, other than a portion which is exempt from disclosure under 12 CFR 505.5, in the following circumstances: (1) The consent of the acquiring person; (2) the consummation or disapproval of the proposed acquisition; or (3) the Notice otherwise becomes public. Generally, any of these conditions operate to remove the basis for an exemption from public disclosure.

When a Notice is disclosed to the public, access will be limited to those portions of the Notice which contain information directly related to the proposed acquisition (Form A). Those portions of the Notice which contain personal biographical and financial information (Form B) will not be disclosed, unless disclosure is otherwise required.

Failure to Disapprove

The proposed amendments would revise § 563.18–2(h) to clarify that where there is a failure to disapprove a proposed acquisition, such acquisition may take place, provided that it is consummated within one year and that there is no material change in circumstances prior to the acquisition. This revision conforms with § 563.18–2(g)(2) which currently indicates the effects of a written notice by the FSLIC of its intention not to disapprove a proposed acquisition.

Filing Procedures

In addition to the filings which must be made at the Board, the current regulations require in § 563.18–2(j) that two copies of a Notice be filed with the Principal Supervisory Agent with respect to a savings and loan institution and that two copies be filed with the

Supervisory Agent with respect to a savings and loan institution holding company. Since the present cross-reference to the definition of Supervisory Agent is incorrect, and since there does not appear to be a need to distinguish between the Principal Supervisory Agent and Supervisory Agent for the purpose of Control Act filings, the Board proposes to require filings only with the Board and the Principal Supervisory Agent.

Delegation of Authority

The proposed regulations provide in § 563.18–2(*l*)(1) that the Director of the Office of Examinations and Supervision with the concurrence of the General Counsel, or their designees, shall have delegated authority to take certain actions under the Control Act and the regulations regarding a Notice filed with respect to an insured institution which has a class of voting securities registered under the 1934 Act. The provisions describing those determinations that are delegated have been revised to conform to the other changes which are porposed.

In order to facilitate a more efficient review, it is proposed in § 563.18–2(*l*)(2) that the appropriate Principal Supervisory Agent shall have delegated authority regarding a Notice filed with respect to an insured institution which does not have a class of securities registered under the 1934 Act. However, the concurrence of the Director of the Office of Examinations and Supervision and the General Counsel, or their designees, is required for (1) a grant, but not a denial, of a waiver, and (2) a recommendation to the Board either to disapprove a proposed acquisition or to issue a notice of intent not to disapprove a proposed acquisition whenever a State supervisory agency recommends disapproval in writing for any grounds specified in the Control Act.

Period for Review and Filing of Additional Information

The Board proposes to clarify the applicable time period for review by providing in § 563.18–2(e) that the 60-day review period commences again in its entirety upon receipt by the FSLIC of additional information filed with respect to a Notice. In addition, the Board proposes to clarify its authoirty to require the filing of additional information if it determines that the information is necessary in connection with its review of the Notice. The proposed revision under § 563.18–2(e)(2) clarifies that any requested waiver of information required in a Notice should be in writing.

Regulatory Flexibility Act Certification

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Board certifies that the proposed amendments, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 563

Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 563 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D— FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

Revise § 563.18–2 to read as follows:

§ 563.18–2 Changes in control of stock institutions including savings and loan holding companies.

(a) *Scope.* This section applies only to changes of control under section 407(q) of the National Housing Act, as amended (12 U.S.C. 1730(q)) ("Control Act").

(b) *Definitions.* As used in this section:

(1) "Person" means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unicorporated organization, or any other form of entity not specifically listed herein;

(2) "Control" means the power, directly or indirectly, to direct the management or policies of an insured institution or to vote 25 percent or more of any class of voting securities of an insured institution;

(3) "Stock" means such stock or other equity securities or equity interests in an insured institution which is a stock company, or rights, interests, or powers with respect thereto;

(4) "Insured institution" or "institution" shall include any savings and loan holding company, as that term is defined in section 408 of the National Housing Act, which has control of any insured institution;

(5) "Actively traded" means securities that are traded either on a securities exchange or over-the-counter and quoted on NASDAQ; and

(6) "NASDAQ" means the electronic inter-dealer quotation system owned and operated by NASDAQ, Inc., a subsidiary of the National Association of Securities Dealers, Inc.

(c) *Acquisitions requiring prior written notice*— (1) *General.* Unless a transaction is exempted under paragraph (d) of this section, 60 days' prior written notice to the Corporation is required whenever any person or persons acting in concert, through a purchase, assignment, transfer, pledge, or other disposition of voting stock, will acquire the power, directly or indirectly:

(i) To direct the management or policies of an insured institution; or

(ii) To vote 25 percent or more of any class of voting securities of an insured institution.

(2) *Transactions presumptively requiring notice.* For purposes of this section, a person shall be presumed to acquire power to direct the management and policies of an insured institution whenever the person will acquire power to vote 10 percent or more of any class of voting securities of the institution and the institution has a class of voting securities which is registered under Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) and is actively traded. Transactions resulting in a person's control of less than 25 percent of a class of voting securities of an institution whose stock is not actively traded does not result in control for purposes of the Control Act.

(3) *Rebuttal of presumption.* Upon request, the Corporation will afford any acquiring person an opportunity to rebut the paragraph (c)(2) of this section presumption in writing and, when appropriate, orally. The Corporation shall have 20 days from the receipt of a materially complete written rebuttal within which to determine whether the presumption has been rebutted. The decision of the Corporation will be provided in writing to the acquiring person.

(4) *Presumption to apply prospectively.* Any person who is deemed to have had the power to direct the management or policies of an insured institution continously since March 9, 1979, solely on the basis of the presumption contained in paragraph (c)(2) of this section, must either give prior written notice as prescribed by this section or seek a determination by the Corporation that the person has had such power, before acquiring additional voting securities in the institution.

(d) *Transactions exempt from notice*—(1) *Transaction entirely exempt.* Notice is not required for:

(i) Transactions subject to section 408 of the National Housing Act (12 U.S.C. 1730a), whether or not prior Corporation approval is required by that section;

(ii) Transactions subject to approval under Part 546 of this chapter or § 563.22 of this subchapter;

(iii) Acquisition of additional shares of any class of voting securities in an insured institution by a person who;

(*a*) Has held power to vote 25 percent or more of any class of voting securities in such institution continuously since March 9, 1979; or

(*b*) Has maintained control of the institution continuously since acquisition of control in compliance with this section and the Control Act;

(iv) A customary one-time proxy solicitation; or

(v) Receipt of pro rata stock dividends.

(2) *Transactions exempt from prior notice.* If a person would obtain control as a result of acquisition of voting securities in an insured institution:

(i) In satisfaction of a debt previously contracted in good faith; or

(ii) Through testate or intestate succession or bona fide gift;

the acquiring party need not provide advance notice but must advise the Corporation in writing within 30 days of the acquisition and provide such information as the Corporation may request.

(e) *Notice*—(1) *Form and contents.* A notice required under paragraph (2) of the Control Act shall not be deemed sufficient unless it includes all of the information required by the form prescribed by the Corporation, and any additional relevant information as the Corporation may require by specific request in connection with any particular notice.

(2) *Waiver.* Upon a written request, the Corporation may waive any required information which is deemed unnecessary.

(3) *Receipt of notice; effect.* The period for Corporation review of any proposed acquisition will commence upon receipt by the Corporation of a notice substantially complying with the provisions of paragraph (e)(1) of this section. The Corporation will send a letter of acknowledgement to an acquiring person indicating the date of receipt of a notice deemed sufficient or specifying the reasons why a notice is insufficient. After the Corporation notifies the acquiring person that the notice is sufficient, the Corporation may subsequently make a determination that additional information is required for its review of the notice, and it shall notify the acquiring person that the notice is insufficient. In such case the period for Corporation review will be deemed to commence again in its entirety upon the receipt of the additional information.

(f) *Disclosure.* Any notice filed pursuant to this section shall be for the information of the Corporation and any appropriate State supervisory agency and shall not be available to the public except under certain conditions. No portion of a notice will be disclosed except in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), and Parts 505 and 505a of this chapter. Public disclosure of any portion of a notice, other than a portion exempt from disclosure under § 505.5 of this chapter, may be made under any of the following conditions:

(1) Consent of the acquiring person;

(2) Consummation or disapproval of the proposed acquisition; or

(3) A notice otherwise becomes public.

(g) *Action by Corporation.* Prior to expiration of the 60-day review period or any extension thereof, the Corporation may notify the acquiring person in writing of:

(1) Its disapproval of the proposed acquisition on any of the grounds listed in paragraph (7) of the Control Act and its advice that the acquiring party may request an administrative hearing under paragraph (4) of the Control Act; or

(2) Its intent not to disapprove the proposed acquisition, provided that it is consummated within one year and that there is no material change in circumstances prior to the acquisition.

(h) *Failure to disapprove.* If, upon expiration of the 60-day review period or any extension thereof, the Corporation has failed to disapprove a proposed acquisition, such acquisition may take place, provided that it is consummated within one year and that there is no material change in circumstances prior to the acquisition.

(i) *Extensions of review period.* The 60-day period may be extended by the Corporation for up to 30 days for any reason.

(j) *Filing procedures.* Any notice or other submission required or provided for in the Control Act or this section shall be filed as follows:

(1) The original and two copies shall be filed with the Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552; and

(2) Two copies shall be filed with the Principal Supervisory Agent, as defined in § 561.35 of this subchapter.

(k) *Sole authority in Corporation.* The Corporation alone shall exercise the authority to:

(1) Disapprove a proposed acquisition; or

(2) Issue a notice of its intent not to disapprove a proposed acquisition whenever the appropriate State savings and loan supervisory agency recommends disapproval in writing on any of the grounds specified in paragaraph (7) of the Control Act.

(l) *Delegations of authority.* (1) The Director of the Office of Examinations and Supervision with the concurrence of the General Counsel, or their designees, is authorized, with regard to institutions having a class of voting securities registered, under Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*), to:

(i) Decide whether a presumption of control has been rebutted under paragraph (c)(3) of this section;

(ii) Determine the existence of control prior to the effective date of the Control Act under paragraph (c)(4) of this section;

(iii) Require information from an acquiring party exempt from the prior-notice requirement under paragraph (d)(4) of this section;

(iv) Require additional information under paragraph (e)(1) of this section;

(v) Grant or deny a waiver of any required information under paragraph (e)(2) of this section;

(vi) Determine sufficiency of a notice for the purpose of commencing or recommencing the review period under paragraph (e)(3) of this section;

(vii) In the absence of a recommendation by the appropriate State savings and loan supervisory agency for disapproval, issue notices of intent not to disapprove proposed acquisitions under paragraph (g)(2) of this section;

(viii) Extend the review period under paragraph (i); (ix) Act on behalf of the Corporation with respect to the exercise of any authority not expressly reserved to the Corporation under paragraph (k) of this section.

(2) The Principal Supervisory Agent is authorized, with regard to institutions not having a class of voting securities registered under Section 12 of the Securities Exchange Act of 1934 (12 U.S.C. 78*l*), to make the determinations under subparagraphs (1) (ii) through (ix) of this paragraph. However, the concurrence of the Director of the Office of Examinations and Supervision and the General Counsel, or their designee, is required for:

(i) a grant, but not a denial, of a waiver referred to under subparagraph (1)(v) of this paragraph; and

(ii) a recommendation either to disapprove a proposed acquisition under paragraph (k)(1) of this section or to issue a notice of intent not to disapprove under paragrah (k)(2) of this section where a State supervisory agency recommends disapproval.

(Title VII, Financial Institutions Regulatory and Interest Rate Control Act of 1978, sec. 407, 48 Stat. 1260, as amended, 12 U.S.C. 1730(q); Reorg. Plan No. 3 of 1947, 12 FR 4981, 2 CFR 1943–48 Comp., 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–13110 Filed 5–12–82; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 82–ANM–3]

Proposed Designation of Restricted Area—Saylor Creek, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate Restricted Area R–3202D, Saylor Creek, ID, located approximately 50 miles south of Boise, ID. The proposed restricted airspace would provide a safe environment for launching Pershing II missiles.

DATE: Comments must be received on or before June 14, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Northwest Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 82–ANM–3, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ANM–3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 73.32 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to designate new Restricted Area R–3202D, Saylor Creek, ID, which is located approximately 50 miles south of Boise, ID. The U.S. Air Force has certified R–3202D has been environmentally assessed in accordance with the guidelines set forth by the National Environmental Protection Agency (NEPA). The lead agency for environmental consideration is the U.S. Air Force, White Sands Missile Range, NM 88002. R–3202D would provide restricted airspace for launching Pershing II missiles. This new launch location is requested to complete test requirements and test objectives. Although the missile test program will continue for several years, R–3202D would be activated only when needed and restricted only for the period of time required to complete each firing operation. Section 73.32 of Part 73 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 73

Restricted areas, Airspace.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.32 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as follows:

R–3202D Saylor Creek, ID [New]

Boundaries. Beginning at lat. 42°56'00" N., long. 116°13'20" W.; lat. 42°12'30" N., long 115°10'40" W.; lat. 42°00'00" N., long. 115°30'30" W.; lat. 42°51'15" N., long. 116°21'00" W.; to point of beginning.

Designated altitudes. Surface to unlimited.

Times of designation. Intermittent, 24 hours in advance by NOTAM.

Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.

Using agency. Deputy for Air Force, Armament Division, White Sands Missile Range, NM.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

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

Issued in Washington, D.C., on May 3, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82–12961 Filed 5–12–82; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 157, 375, and 381

[Docket No. RM82-25-000]

Fees Applicable to Producer Matters Under the Natural Gas Act

May 6, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to establish fees for services and benefits provided by the Commission under its jurisdictional statutes. The Commission is authorized by the Independent Offices Appropriations Act of 1952 (IOAA) to establish fees for services and benefits it provides. The fees are being proposed in a series of proposed rules, each rule relating to a different type of regulated entity or jurisdictional subject area.

This proposed rule would establish fees for services and benefits provided to natural gas producers under the Natural Gas Act in Part 381 of the Commission's regulations. The rule would require the payment of a fee upon the filing of (1) an application for a blanket small producer certificate under section 7(c) of the NGA, (2) an application for a producer certificate of public convenience and necessity under section 7(c) of the NGA, and (3) a producer rate schedule supplement or producer rate change under section 4 of the NGA.

DATE: Comments must be submitted to the Secretary of the Commission by July 5, 1982.

ADDRESS: Send comments to Federal Energy Regulatory Commission, Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Room 9310, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8400.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to establish fees for services and benefits provided by the Commission under its jurisdictional statutes. The fees are being proposed in a series of proposed rules, each rule relating to a different type of regulated entity or jurisdictional subject area. By proposing fees in a series of individual rulemakings, the Commission intends to identify clearly each category of fees and to focus public comments. Nevertheless, the proposals are the product of a comprehensive examination of potential fees associated with all the different functions and services performed by the Commission. The Commission will consider issuing a consolidated final rule establishing fees for all services and benefits.

This proposed rule would establish fees for services and benefits provided to natural gas producers under the Natural Gas Act (NGA)[1] in Part 381 of the Commission's regulations. The rule would require the payment of a fee upon the filing of (1) an application for a blanket small producer certificate under section 7(c) of the NGA, (2) an application for a large producer certificate of public convenience and necessity under section 7(c) of the NGA, and (3) a producer rate schedule supplement or producer rate change under section 4 of the NGA.

The Commission is authorized by the Independent Offices Appropriations Act of 1952 (IOAA)[2] to establish fees for services and benefits it provides. The IOAA provides in pertinent part:

> [A]ny work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency * * * to or for any person * * * shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation * * * to prescribe therefore such fee, charge, or price, if any, which he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration the direct and indirect costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amounts so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts * * *

The principal agency interpretation of the IOAA is Bureau of the Budget Circular A-25 [3] which states that a fee should be assessed against each identifiable recipient of a measurable unit or amount of Government service or property from which such recipient derives a special benefit.[4]

In accordance with the IOAA and authoritative interpretations of that statute, the Commission, in establishing any fee, must: [5]

A. Identify the service for which the fee is to be assessed;

B. Explain why that particular service benefits an identifiable recipient more than it benefits the general public;

C. Base the fee on as small a category of service as practical; and

D. Demonstrate what direct and indirect costs are incurred by the Commission in rendering the service, and show that those costs are incurred in connection with the service rendered the beneficiary.

II. Discussion

The Commission believes that the fees set forth in this proposed rule would meet the four requirements outlined above.

A. Identification of Services

The categories of services and benefits provided to producers under the NGA for which the Commission would propose a fee are the following:

1. Review of applications for blanket small producer certificates under section 7(c) of the NGA, filed in accordance with § 157.40(b);

2. Review of applications by large producers for certificates of public convenience and necessity under section 7(c) of the NGA, filed in accordance with Part 157; and

3. Review of producer rate schedule supplements or rate changes under section 4 of the NGA, filed in accordance with § 154.94.

In this proposed rulemaking, the Commission is not proposing to charge fees for other actions it takes to implement its responsibilities relating to

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[1] 15 U.S.C. 717-717w.

[2] 31 U.S.C. 483a.

[3] Bureau of the Budget Circular A-25 (September 23, 1959). This interpretation has been quoted by the U.S. Supreme Court as "the proper construction of the act," in FPC v. New England Power Co., 415 U.S. 345, 351 (1974).

[4] Budget Circular A-25 at 1-2:

General Policy. A reasonable charge . . . should be made to each identifiable recipient for a measurable unit or amount of Government service or property from which he derives a special benefit. . . . For example, a special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

a. Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (*e.g.*, receiving a patent, crop insurance, or a license to carry on a specific business); or

b. Provides business stability or assures public confidence in the business activity of the beneficiary (*e.g.*, certificates of necessity and convenience for airline routes, or safety inspections of craft). . . .

[5] *See* National Cable Television Association, Inc. v. United States, 415 U.S. 336 (1974); FPC v. New England Power Co., 415 U.S. 345 (1974); Mississippi Power & Light v. NRC, 601 F.2d 223 (5th Cir. 1979); National Cable Television Association, Inc. v. FCC, 554 F.2d 1094 (D.C. Cir. 1976); Electronic Industries Association v. FCC, 554 F.2d 1109 (D.C. Cir. 1976); National Association of Broadcasters v. FCC, 554 F.2d 1118 (D.C. Cir. 1976); Capital Cities Communications, Inc. v. FCC, 554 F.2d 1135 (D.C. Cir. 1976).

gas producers under the NGA. These actions are discussed in Subsection B of this discussion.

B. Special Benefits to Identifiable Recipients

In delineating the services or benefits for which agencies are permitted to charge under the terms of the IOAA, Budget Circular A-25 states that a fee may be charged to an identifiable recipient who derives a special benefit from a Government service.[6] In addition, the circular indicates that a "special benefit" has accrued if the recipient obtains "more immediate or substantial gains or values * * * than those which accrue to the general public." [7] Any fee charged under the IOAA is not rendered invalid because the public may also enjoy incidental benefits which flow from the service provided the recipient by the agency.[8] However, an agency may not charge for its services "when the identification of the ultimate beneficiary is obscure and the service can be considered as benefitting broadly the general public." [9]

The proposed rule complies with these requirements in that the services for which fees would be charged under this rule provide special benefits to the applicants who invoke the Commission's procedures. A blanket small producer certificate under section 7(c) of the NGA benefits the applicant by exempting the applicant from certain otherwise applicable filing requirements.

A certificate of public convenience and necessity under section 7(c) benefits the applicant by allowing the applicant to engage in the business of sale for resale of natural gas. Without a certificate, a producer would be precluded by section 7(c) of the NGA from selling natural gas for resale in the interstate market.

The Commission, under section 4, reviews rate schedule supplements and producer rate changes filed by producers which establish a new, higher base rate. In reviewing these rate schedules, the Commission makes an affirmative determination that the new base rate is proper, allowing it to go into effect. In addition, once a rate schedule is filed, the producer benefits by being allowed under the blanket affidavit program, to escalate the base rate to reflect the monthly inflation adjustment allowed by the Natural Gas Policy Act, without additional filings.

In these cases, the Commission believes that each identifiable applicant for these kinds of Commission services derive more substantial benefits than those benefits accruing to the general public. They are therefore the recipients of special benefits from the Commission. Therefore, this notice proposes to assess against any individual or entity seeking these services or authorizations a fee designed to recover the costs associated with providing that service.

As mentioned above, the Commission is not proposing in this rulemaking to charge fees for other actions it takes relating to gas producers under the NGA. These actions include preliminary and formal enforcement investigations, settlement and administrative litigation, news releases, litigation in the courts, and rulemakings. Generally, the recipients of these services are not readily identifiable.[10]

C. Smallest Practical Unit

In designing a fee schedule, the IOAA requires the Commission to base fees on the smallest unit of category of service or benefit practical. In remanding fees established by the Federal Communications Commission, the Court of Appeals for the D.C. Circuit set forth the general rule:

> [W]e interpret the statute and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is *practical*. In most cases, we expect this unit will be classes of carriers or applicants or grantees or services which the Commission has already singled out for separate treatment in its 1975 fee schedule. Classification is always a difficult problem, involving as it does the drawing of lines; but the solution is not to group dissimilar entities together. The Commission must examine its expenses and set forth the maximum particularization of costs which it conveniently can make, so that the correctness of its actions can be reviewed.
> * * * * *
> Many of the expenses will no doubt separate naturally among classes of carriers and services. . . . (emphasis added).[11]

The Commission recognizes that there may be significant differences in the costs incurred for individual filings or applications which are submitted for approval or review. Some filings are more complex or controversial than others or may require more time to process. the Commission is proposing to establish fees based on the narrowest categories of activities sharing common characteristics. Fee categories are generally delineated according to the nature of the service or benefit provided. For example, applications for blanket small producer certificates are not grouped with other applications for certificates of public convenience and necessity filed by producers, or with filings of producer rate schedule supplements or producer rate changes.

A fundamental consideration in developing a fee structure under the IOAA is the administrative practicality of establishing fees which relate, nor just to categories of services, but also to subcategories of services or even individual agency services. This problem relates to the accessibility of cost data and the expense incurred in collecting the data. The Commission believes it has the authority to establish separate fees for any filing that initiates a proceeding and any filing that requires the Commission to undertake additional steps in that proceeding, such as requests for rehearing, intervention, or appeals. However, because the time spent in subsequent stages of a proceeding is not separately recorded by the Commission, the Commission does not have data at this time which is detailed enough to permit it to establish a separate fee for each stage of a proceeding. As a result, the Commission is proposing to establish only one fee for any proceeding or application process because the Commission believes that the entire process is the smallest unit practical on which to base a fee. It nevertheless requests comments on whether fee categories should be established for smaller classes of applicants, or separate stages of a proceeding and the nature of the data which would be necessary to support such fee categories.

D. Basis of Cost Recovery

1. *Direct and indirect costs included.* The fee schedule proposed by the Commission is designed to account for all types of recoverable costs associated with the processing of the specified applications and filings under the NGA. The costs attributable to a particular Commission service are not merely the salaries of the employees who review the applications or filings. As the Fifth Circuit observed, in *Mississippi Power & Light* v. *NRC*, employees "must be supplied with working space, heating, lighting, telephone service and secretarial support. Arrangements must be made so that [they are] hired, paid on

[6] Budget Circular A-25 at 1-2.

[7] *Id.* at 2.

[8] *See* Mississippi Power & Light v. NRC, 601 F.2d 223, 227-28 (5th Cir. 1979); Electronic Industries Association v. FCC, 554 F.2d 1109, 1115 (D.C. Cir. 1976).

[9] Budget Circular A-25 at 2; quoted with approval in FPC v. New England Power Co., 415 U.S. 345, 350 (1974).

[10] The Commission is considering, in other rulemakings, fees for declaratory orders under all of its jurisdictional statutes and recovery of the costs of certain rulemakings. In those cases where a fee is proposed, the Commission believes that there are special benefits provided to identifiable recipients.

[11] Electronic Industries Association v. FCC, 554 F.2d 1109, 1116-17 (D.C. Cir. 1976).

a regular basis and provided specialized training courses. Those and other costs such as depreciation and interest on plant and capital equipment are all necessarily incurred in the process of reviewing an application."[12] The following descriptions indicate what actual costs are incurred when the Commission supplies the services and benefits to producers under the NGA.

Applications for producer certificates are processed by the Office of Pipeline and Producer Regulation (OPPR). The application is noticed in the **Federal Register** and is reviewed for conformance with the Commission's regulation. A draft order is prepared and reviewed by the Office of General Counsel for legal sufficiency. In most cases, the Director of OPPR conducts a statutory hearing under 18 CFR 1.32 and issues a certificate under delegated authority. In addition, when a producer is unable to continue service, the producer files for abandonment authorization under Section 7(b) of the Natural Gas Act. Notice of these applications is published and orders are prepared after a review of the factual basis for the abandonment. The applicable rate schedules are also identified and cancelled.

Large producers file contract amendments or changes to their rate schedules under the Natural Gas Act, which are reviewed and analysed by the rate filing branch OPPR for conformity with statutes, Commission regulations or orders, and contractual entitlement. This review and analysis assures that the rate changes are in the public interest and are just and reasonable. Once this analysis is complete, a staff memorandum is prepared and submitted to the Office of the General Counsel for review. Then, the Director of OPPR reviews the staff memorandum and issues a letter of acceptance or rejection.

2. *Methodolgy.* The Commission's calculation of the costs incurred to provide each of the services represented by a fee category is directly related to the amount of time the Commission spends providing each of these services. The proposed rule relies on information obtained through the Commission's management information system (MIS), which provides the amount of time spent on all the Commission functions. This data is recorded on a periodic basis. The functions are grouped into categories which represent the Commission's various programs, including gas wellhead pricing, gas pipeline rates, gas pipeline certificates, gas producer certificates, oil pipeline regulation, hydropower regulation, and electric power regulation.

The supervisor in each organizational unit reports to the MIS the amount of time spent by staff on each function, in terms of "work-months". A "work-month" is the unit of work represented by one employee's devotion of 100% of his or her time for one month. With respect to each function, the supervisor records the number of projects initiated (receipts) and completed (completions) in a particular time period, insofar as the nature of the function involves the initiation and completion of projects. Most Commission functions can be measured in terms of the number of projects initiated and completed. In accordance with Commission practice, these projects are generally assigned docket numbers and, for purposes of this discussion, will be referred to as "docket activities".

Other "support" functions regularly undertaken, with respect to any program, may not be measured in terms of receipts and completions and are not docketed. The nature of these functions makes impractical any measurements in terms of receipts and completions, but staff time is nevertheless spent performing these functions. This time is also allotted and reported by unit supervisors.

These support functions will be referred to as "support activities" and can be divided into three categories. First, there are activities that involve general supervision, personnel management, and routine administrative functions such as maintenance of time and leave records, the handling of property and supplies, staff meetings, and the planning and organizing of leave.

Second, support staff responds to requests for information that does not contribute directly to the completion of a docketed activity. Examples include requests for information from the public, from the Congress, from the General Accounting Office, and from other governmental agencies.

Third, support staff establishes or reviews certain Commission operations and procedures. These activities include work on the FERC budget, management information systems, and program development functions such as special studies or briefings not identified with a docketed activity.

The Commission uses the following method to determine the cost of providing any service or benefit. First, the work-months (WM's) reported for a specific "docketed" activity are added to a pro-rata share of the work-months reported for the relevant "support" activities.[13] This figure, representing the total number of work-months dedicated to a given function for a year, is divided by the number of completions for that year for the given activity. The resulting quotient represents the average number of work-months required to complete each activity.

Second, the Commission used the following figures provided by the Office of Program Management to derive the average cost of a work-month, based on the Commission's FY 1982 budget.

Average annual salaries and fringe benefits (including the overhead for retirement and benefit insurance)	$37,518
Administrative overhead for one year per employee (including printing, communication, office space, rent, etc.)	8,468
Contracts for overhead services for one year per employee (microfilm, etc.)	2,406
Estimated average cost per employee for fiscal year 1982	48,392

The total is divided by 12 to yield an average work-month cost of $4,032.67.

Third, in order to determine the cost of the activity, the Commission multiplies the average cost per work-month by the average number of work-months required to complete the activity.

The Commission proposes to update the fees each year to reflect Commission costs. An updated fee schedule would be published in the **Federal Register** each year. the updated fee would be the product derived by multiplying each fee that is effective for the current fiscal year by the ratio of the average budgeted costs per employee for the next fiscal year to the average budgeted costs per employee for the current fiscal year. An applicant would be obliged to pay either the updated fee or, if the updated fee is not yet effective, the fee that is currently effective at the time of filing.

E. Exceptions to Full-Cost-Recovery

As a general policy, the Commission intends to establish fees which include all the recoverable costs associated with a particular benefit or service provided by the Commission. The Commission recognizes, however, that there may be instances in which a fee has an undesired effect on an applicant or other person requesting a service or benefit or otherwise proves infeasible. In such cases, the Commission may exercise discretion to reduce the fee for a category of service. Generally speaking, the Commission does not expect this issue to arise with regard to any service

[12] 601 F.2d at 232.

[13] The Commission excluded from its cost calculations the work-months associated with the second category of support activities, because those functions did not constitute part of the cost of providing a special benefit.

that is necessary for participation in a regulated business and continues to consider the possibility of full-cost-recovery for each category of service for which it proposes fees. The Commission specifically requests comments on this fundamental approach.

The primary concern presented by the establishment of fees is to ensure that the benefits and services provided by the Commission under its jurisdictional statutes remain reasonably available to interested persons. Any consideration of whether to establish a less than full-cost-recovery fee under new Part 381 for a category of service would initially depend on a threshold determination that a full-cost-recovery fee may discourage use of the service for which the fee is assessed. If it appears to the Commission that a full-cost-recovery fee would discourage filings or use of Commission services, it would then consider a reduction in the relevant fee. The determination of how far to reduce a fee would depend on four specific factors.

1. *Disproportionate economic burden.* The Commission may reduce the fee by a factor of forty to sixty-five percent, if it is shown that the individuals or entities the Commission expects to predominate in the potential class of payers are of the type on which the full-cost-recovery fee could be expected to impose a disproportionate economic burden. If the Commission service does not pertain to small entities or involve any particular economic hardship, but would nevertheless impose a full-cost-recovery fee that would discourage use of that service, the Commission would be inclined to reduce the fee by a small amount, not to exceed fifty percent of the full cost of the service, depending upon other considerations which may arise.

2. *Encouraging use of a service.* The Commission may reduce the fee by twenty percent, if the service or procedure involved is of a type that the Commission wishes to encourage or if the Commission prefers that service or procedure to be used more often than others which would provide essentially the same benefit.

3. *Use of Commission time.* Related to the consideration of encouraging one service over another is a consideration of whose time and effort is required to provide the particular service. Commission time is more valuable and limited than staff time, so a reduction of five percent may be made if a service requires only staff time.

4. *Reduction of processing time.* There may be some services the Commission provides with which the Commission has had little experience. As the Commission becomes more familiar with the processing or review of such an application or filing, it may become more efficient, thereby reducing the amount of time required to provide the service. To reflect this possibility, the Commission may reduce the fee by five percent if the service requested is one with which the Commission has had little experience.

III. Fees Proposed

The following table summarizes the average number of work-months (WMs) and average costs incurred in rendering the services for which the Commission proposes fees in this rulemaking:[14]

Service	Total WM's	Total completions	Average number WMs per completion	Average cost per completion
Review of applications for blanket small producer certificates	79.4	198	.401	$1,613.00
Review of applications for producer certificates of public convenience and necessity	376.92	715	.527	2,137.00
Review of producer rate schedule filings	320.1	3,846	.083	322.61

The following fees are therefore proposed: [15]

Service	Fee
Blanket small producer certificates	$1,600.00
Producer cetificates of public convenience and necessity	2,100.00
Producer rate schedule filings	300.00

These fees are essentially full-cost-recovery fees. They are not reduced according to the factors discussed above because these fees do not exhibit characteristics which warrent fee reductions. However, the Commission is proposing procedures whereby the Commission may waive or reduce the fees prescribed by this proposal. These procedures would give the Commission the discretion to waive or reduce the fees in order to avoid undue economic burden in particular cases.

IV. Procedures for Paying Fees

In order to be consistent with the assessment of fees relating to producer matters under the NGA, the Commission proposes to amend its current regulations regarding the procedures applicable to each of the filings and applications covered by the proposed fee schedule. The amended procedures would require that a certified check for the appropriate amount, made payable to the United States Treasury, be included with each filing and application.

In addition, the proposal provides that any application or filing which is not accompanied by the appropriate fee would be considered deficient and would not be processed by the Commission.

Furthermore, in the areas where the Commission presently charges fees, it follows a policy of no refunds, with minor exceptions. The Commission expects to apply this no refund policy to all fees proposed under the IOAA in this series of rulemakings, as well.

V. Direct Billing Alternative

As discussed above, the methodology that would be used to establish the proposed fees is based on the average cost of processing the average filing. The Commission occasionally receives filings which are not representative of these average filings. These filings may be so extensive in scope and present issues of such complexity or difficulty that the Commission must devote an extraordinary amount of time and effort to processing them. The standard fees would bear no reasonable relationship to the actual cost of processing these extraordinary filings. Moreover, if the costs of processing these extraordinary filings were included in the average costs associated with average filings, persons submitting average filings would be subsidizing those submitting the extraordinary filings. Therefore, the Commission is proposing that in the case of an extraordinary filing, it would order a direct billing procedure.

Under this direct billing procedure, the Commission would periodically bill the person who submitted the filing for all the direct and indirect costs incurred by the Commission in processing the filing. The filing would then be processed like other filings, but the manpower devoted to processing the filing would be separately recorded and

[14] The Commission is placing in the public file in this docket more detailed data relating to the costs incurred by the Commission which form the basis of the proposed fees.

[15] Fees are established by taking actual costs and rounding *down* to:

(1) The nearest $5 increment, if the total cost is $100 or less; and

(2) The nearest $100 increment, if the total cost is more than $100.

would not be averaged with the time devoted to processing the average filing.

VI. Summary of Proposed Rule

This proposed rule establishes fees for services and benefits provided by the Commission to producers under the NGA in proposed Part 381 of Chapter 1 of Title 18 of the Code of Federal Regulations.

Proposed § 381.103 provides that each filing must be accompanied by the proper fee or the filing will be considered deficient, which could result in rejection of the filing. Section 381.103 also provides that if a filing for one service or benefit may be considered as falling within two or more fee categories, the higher or highest of the applicable fees must be paid.

Proposed § 381.104 requires the publication of an updated fee schedule each year to reflect an increase or decrease in costs.

Proposed § 381.106 provides that the Commission may waive or reduce fees if to do so is necessary to prevent an undue economic burden.

Proposed § 381.107 provides that the Commission may order any filing, the processing of which requires an extraordinary amount of time and staff resources, to be assessed fees under a direct billing procedure. Any fees paid under Part 381 upon submission of the filing would be credited against the direct bill.

Proposed § 381.401 establishes a $1,600 fee payable upon the submission of an application for a blanket small producer certificate under section 7(c) of the NGA.

Proposed § 381.402 establishes a $2,100 fee payable upon submission of an application for a producer certificate of public convenience and necessity under section 7(c) of the NGA.

Proposed § 381.403 establishes a $300 fee payable upon the filing of producer rate schedule supplement or rate change under section 4 of the NGA.

In addition, this proposed rule amends the Commission's regulations, relating to the above-mentioned categories of service to require each producer to file the proper fee with the application or rate schedule filing.

VII. Initial Regulatory Flexibility Analysis

Whenever the Commission is required by section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553) to publish a general notice of proposed rulemaking, it is also required by section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) to prepare and make available for public comment an initial regulatory flexibility analysis. The analysis must describe the impact the proposed rule will have on small entities. The broad purpose of the RFA is to ensure more careful and informed agency consideration of rules that may significantly affect small business and small government entities, and to encourage cost-benefit analyses of these rules as well as the agency's consideration of alternative approaches that may better resolve any unnecessarily costly or adverse effects on these small entities.

In this preamble the Commission presents its reasons for this agency action, its objective, and the legal basis for this rulemaking. As discussed, the proposed rule would establish a schedule of fees to be paid to the Commission for certain benefits it provides. The proposed rule would not impose any reporting, recordkeeping or compliance requirements.

This rule would affect natural gas producers. There are approximately 10,000 natural gas producers in the United States.

The Small Business Administration's (SBA) regulations do not establish size standards for producers. (*See* 13 CFR Part 121). However, a significant proportion would probably be classified as small businesses. Therefore, this rule may have a significant economic impact on a number of small producers.

Where a proposal may have significant economic impact on a substantial number of small entities, section 603(c) of the Regulatory Flexibility Act requires the Commission to discuss significant alternatives to the proposal. The Commission has already attempted to minimize any disproportionate burden the proposal would have on small businesses. The proposal contains a provision for waiver or reduction of those fees to protect any producers subject to the fees from an undue economic burden. The Commission could, of course, consider reducing the fees, or even eliminating the fees, with respect to small businesses. However, in proposing the fees, the Commission is also attempting to satisfy the statutory directive of the IOAA to be "self-sustaining to the full extent possible." The Commission believes the rule, as proposed, represents a fair balance which will satisfy the purposes of both the IOAA and the Regulatory Flexibility Act.

VIII. Written Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, not later than July 5, 1982. Each person submitting a comment should indicate that the comments are being submitted in Docket No. RM82–25–000, and should give reasons, including any supporting data, for any recommendations. Comments should also indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies of each comment should be filed with the Commission. All comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

(Department of Energy Organization Act, 42 U.S.C. 7101–7; E.O. 12009, 3 CFR 142 (1978); Independent Offices Appropriations Act, 31 U.S.C. 483a).

List of Subjects

18 CFR Parts 154 and 157

Natural gas.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 381

Natural gas, General fees.

In consideration of the foregoing, the Commission proposes to amend Chapter I, Title 18 *Code of Federal Regulations* as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Chapter 1 is amended in its table of contents by adding in the appropriate numerical order, a new part and heading, to read as follows:

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

* * * * *

SUBCHAPTER W—REVISED GENERAL RULES

Part

* * * * *

381 Fees.

* * * * *

PART 154—RATE SCHEDULES AND TARIFFS

2. Section 154.94 is amended in paragraph (a) by adding a new sentence at the end thereof, to read as follows:

§ 154.94 Changes in rate schedules.

(a) * * * Each change in rate schedule filing must be accompanied by the

appropriate fees prescribed in § 381.403 of this chapter.

* * * * *

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

3. Section 157.24 is amended by adding a new paragraph (c) at the end thereof, to read as follows:

§ 157.24 Contents of application.

* * * * *

(c) Each application for a certificate of public convenience and necessity required under § 157.23 must be accompanied by the appropriate fee prescribed in § 381.402 of this chapter.

4. Section 157.40 is amended by adding a new paragraph (b)(7), to read as follows:

§ 157.40 Exemption of small producers from certain filing requirements.

* * * * *

(b) *Procedure for securing blanket small producer certificate.* * * *

(7) Each application for a blanket small producer certificate must be accompanied by the appropriate fee prescribed in § 381.401 of this chapter.

PART 375—THE COMMISSION

5. Section 375.307 is amended by adding a new paragraph (u) at the end thereof, to read as follows:

§ 375.307 Delegations to the Director of the Office of Pipeline and Producer Regulation.

* * * * *

(u) Waive or reduce the fees prescribed in §§ 381.401, 381.402, and 381.403 of this chapter, in accordance with § 381.106 of this chapter.

6. Subchapter W is amended by adding a new Part 381 to read as follows:

SUBCHAPTER W—REVISED GENERAL RULES

* * * * *

PART 381—FEES

Subpart A—General Provisions

Sec.

381.101 Purpose.
381.102 Definitions.
381.103 Filings.
381.104 Annual adjustment of fees.
381.105 Method of payment.
381.106 Reductions and waivers.
381.107 Direct billing.

Subpart B—Fees Applicable to General Functions [Reserved]

381.201 Declaratory orders. [Reserved]
381.202 Interpretations by the Office of the Chief Accountant. [Reserved]
381.203 Review of DOE denials of adjustment. [Reserved]
381.204 Review of DOE remedial orders. [Reserved]

Subpart C—Fees Applicable to the Natural Gas Policy Act of 1978 [Reserved]

381.301 Adjustments. [Reserved]
381.302 Well-category determinations. [Reserved]
381.303 Initial reports for Title III transactions. [Reserved]
381.304 Extension reports for Title III transactions. [Reserved]
381.305 Interpretations by the Office of the General Counsel. [Reserved]

Subpart D—Fees Applicable to the Natural Gas Act and Related Authorities [Reserved]

381.401 Blanket small producer certificates. [Reserved]
381.402 Producer certificates of public convenience and necessity. [Reserved]
381.403 Producer rate schedule filings. [Reserved]

Subpart E—Fees Applicable to the Federal Power Act [Reserved]

Subpart F—Fees Applicable to the Public Utility Regulatory Policies Act of 1978 [Reserved]

Subpart G—Fees Applicable to the Interstate Commerce Act and Related Authorities [Reserved]

Authority: Department of Energy Organization Act (42 U.S.C. 7101–7352); E.O. 12009, 3 CFR 442 (1978); Independent Offices Appropriations Act (31 U.S.C. 483a).

Subpart A—General Provisions

§ 381.101 Purpose.

The purpose of this part is to set forth the fees charged by the Commission for services and benefits provided by the Commission.

§ 381.102 Definitions.

For purposes of this part, the following definitions apply.

(a) "Person" means any person, group, association, organization, partnership, corporation, or business, except those engaged in the transaction of official business of the Government.

(b) "Work year cost" means the ratio of the Commission's budgeted expenses during any given fiscal year to the authorized staff level for that fiscal year.

(c) "Filing" means any application, petition, request, or motion submitted to the Commission in connection with any of the services or benefits for which a fee is established in this part.

§ 381.103 Filings.

(a) *Submittal of fees.* Except as provided in § 381.106, a fee in the amount set forth in this part shall accompany each filing for which a fee has been established.

(b) *Deficiencies.* (1) Any filing that is not accompanied by either the fee established for that filing or a request for reduction or waiver in accordance with § 381.106 is deficient.

(2) The Secretary will inform any person submitting a deficient filing that:

(i) Such filing will be rejected unless the appropriate fee is submitted within a specified time;

(ii) The Commission will not process any filing that is deficient under this paragraph; and

(iii) The date of filing is the date on which the Commission receives the appropriate fee.

(3) This provision does not preclude a determination that a filing is deficient for any other reason.

(c) *Choice of two fees.* If a filing for one service or benefit may be considered as falling within two or more categories of service for which a fee is established, that filing must be accompanied by the higher or highest of the applicable fees.

§ 381.104 Annual adjustment of fees.

(a) *Update and Publication.* Beginning in fiscal year 1983, fees established in this part are updated annually, in accordance with this section. Updated fees are published in the **Federal Register** and as an appendix to this part.

(b) *Payment of updated fees.* Any person who, after fiscal year 1982, submits a filing for which a fee is established in this part must pay the updated fee under this section or, if the fee has not been updated at the time of filing, the currently effective fee.

(c) *Formula.* The fee applicable to a fee category in each fiscal year is the fee for the previous fiscal year for that category, multiplied by the ratio of the work year cost for the fiscal year for which the fee is determined to the work

year cost for the previous fiscal year. The fee is rounded down to the nearest five dollar increment.

(d) *Effective date of fee.* Any fee updated under this section is effective on the thirtieth day after publication in the Federal Register of the revised appendices to this part, or the first day of the fiscal year for which the fee is updated, whichever is later.

§ 381.105 Method of payment.

Fee payments shall be made by certified check or money order payable to the Treasurer of the United States.

§ 381.106 Reductions and Waivers.

(a) *When to request.* At the time that a filing is submitted to the Commission the applicant may request a waiver or reduction of the fee prescribed in this part.

(b) *Basis.* The applicant must show that waiver or reduction of the fee is necessary to prevent an undue economic burden on the applicant.

(c) *Commission action.* The Commission or its delegatee shall notify the applicant within 21 days of the decision to grant or deny the request for waiver or reduction. The filing shall be held in abeyance pending disposition of the waiver request.

§ 381.107 Direct billing.

(a) *Applicability.* If a filing presents issues of fact or law, procedural difficulty, or technical complexity, which require an extraordinary amount of Commission time and effort to be devoted to processing that filing, the Commission will institute a direct billing procedure for that filing. Fees assessed by a direct billing procedure in accordance with this section will supersede the fees established in this part for the appropriate category of service.

(b) *Procedures.* (1) If the Commission determines that a filing meets the standards prescribed in paragraph (a) of this section, the Commission may order that the full cost of processing the filing be recovered under a direct billing procedure. The Commission will make a direct billing determination under this paragraph not later than one year after the filing is accepted for filing by the Commission.

(2) Direct billing will not be instituted with respect to any filing until the person who submitted the filing is notified that direct billing will be applied to the filing in lieu of the fees established under this part.

(3) Any fee submitted with the filing will be applied, as a credit, to the amount billed directly for processing costs. The Secretary will thereafter periodically bill the person who submitted the filing for the actual direct and indirect costs of processing the filing incurred after the Commission orders the direct billing procedure instituted.

Subpart B—Fees Applicable to General Functions [Reserved]

§ 381.201 Declaratory orders. [Reserved]

§ 381.202 Interpretations by the Office of the Chief Accountant. [Reserved]

§ 381.203 Review of DOE denials of adjustment. [Reserved]

§ 381.204 Review of DOE remedial orders. [Reserved]

Subpart C—Fees Applicable to the Natural Gas Policy Act of 1978 [Reserved]

§ 381.301 Adjustments. [Reserved]

§ 381.302 Well-category determinations. [Reserved]

§ 381.303 Initial reports for Title III transactions. [Reserved]

§ 381.304 Extension reports for Title III transactions. [Reserved]

§ 381.305 Interpretations by the Office of the General Counsel. [Reserved]

Subpart D—Fees Applicable to the Natural Gas Act and Related Authorities

§ 381.401 Blanket small producer certificates.

The fee for blanket small producer certificates is $1,600.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and § 157.40(b).

§ 381.402 Producer certificates of public convenience and necessity.

The fee for producer certificates of public convenience and necessity is $2,100.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and § 157.24.

§ 381.403 Producer rate schedules.

The fee established for producer rate schedule filings is $300.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and § 154.94.

Subpart E—Fees Applicable to the Federal Power Act [Reserved]

Subpart F—Fees Applicable to the Public Utility Regulatory Policies Act of 1978 [Reserved]

Subpart G—Fees Applicable to the Interstate Commerce Act and Related Authorities [Reserved]

[FR Doc. 82-13104 Filed 5-12-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 146

Admission Into Foreign-Trade Zone of Merchandise From Customs Bonded Warehouse

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to allow imported merchandise withdrawn from a Customs bonded warehouse to be admitted into a foreign-trade zone without restriction for use in manufacturing operations. At present, that merchandise is restricted and must be exported from the United States, destroyed, or merely stored in a foreign-trade zone.

The proposed amendment would remove a restriction on commerce and allow greater utilization of foreign-trade zones by increasing manufacturing operations in the zones.

DATE: Comments must be received on or before July 12, 1982.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Russell A. Berger, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5856).

SUPPLEMENTARY INFORMATION:

Background

Foreign-trade zones ("zones") are established under the Foreign-Trade Zones Act of 1934, as amended (FTZA) (19 U.S.C. 81a–81u) and the general regulations and rules of procedure of the Foreign-Trade Zones Board contained in 15 CFR Part 400. Part 146, Customs

Regulations (19 CFR Part 146), governs the admission of merchandise into a zone; manipulation, manufacture, or exhibition of merchandise in a zone; exportation of merchandise from a zone; and transfer of merchandise from a zone into the customs territory of the United States ("customs territory").

Foreign or domestic merchandise may be admitted into a zone for, among other things, manipulation, manufacture, assembly, or other processing, or for storage or exhibition, provided these operations are not otherwise prohibited by law. Normal customs entry procedures and payment of duty are not required for merchandise located in a zone unless and until the merchandise is removed from a zone and entered into the customs territory.

As presently written, § 146.25(d), Customs Regulations, specifies that merchandise entered for warehousing under section 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1557(a)), and thereafter transferred to a zone shall have the status of "zone-restricted merchandise". This means that the merchandise may be taken into the zone only for the purpose of exportation, storage, or destruction. Consequently, such merchandise may not be used in the zone in manufacturing operations. Customs believes that § 146.25(d) is unduly restrictive basically because the underlying statutory authority, 19 U.S.C. 1557(a), does not make specific provision for the transfer of warehoused merchandise to a zone.

In 1938, when 19 U.S.C. 1557(a) was amended to provide that warehoused merchandise might be withdrawn "for transportation and rewarehousing at another port or elsewhere," there were only one or two zones in existence pursuant to the authority of the FTZA. Under these circumstances, it appears that the Congress did not specifically consider the transfer of warehoused merchandise to a zone when it amended 19 U.S.C. 1557(a). Hence, while the Congress did not specifically include zones in 19 U.S.C. 1557(a), neither did it intend to exclude them from that section.

Customs believes that the meaning of 19 U.S.C. 1557(a) is open to reasonable interpretation. The lack of a specific provision for zones in 19 U.S.C. 1557(a) should not be construed to restrict any otherwise permissible use of the merchandise while in the zone. In this regard, manufacturing operations have been permitted in zones since amendment of the FTZA in 1950.

Under present § 146.25(d), as noted above, merchandise withdrawn from a warehouse and transferred to a zone may not be used in manufacturing. However, merchandise placed directly in a zone may be so used. Customs believes this unequal treatment unnecessarily restricts commerce and results in decreased utilization of manufacturing capabilities in zones.

Therefore, in light of current commercial realities—the existence of over 60 zones, a number of which are engaged in extensive manufacturing operations—Customs has determined that § 146.25(d) should be amended as indicated below to remove the zone-restricted status of foreign merchandise withdrawn from a bonded warehouse and transferred to a zone.

If this proposed amendment is adopted, it is anticipated that merchandise to be admitted with nonprivileged or privileged foreign status would be withdrawn from a bonded warehouse under an entry for immediate transportation ("I.T. entry") and transported in-bond to a zone. Upon admission to the zone, the original warehouse entry would be liquidated, and the documentation from the I.T. entry would be attached to the required zone documentation to provide sufficient information for Customs and other purposes. Present procedures applicable to merchandise admitted with zone-restricted status would not be changed.

Likewise, adoption of the proposal would modify all prior Headquarters decisions, whether published or unpublished, including Customs Service Decisions (C.S.D.) 79–204 and 81–88, to the extent that they are inconsistent with the proposal. C.S.D. 79–204 and 81–88 held that merchandise in a Customs bonded warehouse may be withdrawn from that warehouse and admitted into a zone only with zone-restricted status.

Comments

Before adopting this proposal, consideration will be given to any written comments submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291

The proposed regulation is not a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Customs Office of Economic Analysis has concluded that, contrary to having any adverse economic impact on small entities, the proposal would facilitate commerce and have an overall bneficial economic impact. The proposal is not expected to have a significant secondary or incidental effect on a substantial number of small entities; impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities; or generate significant interest or attention from entities through comments, either formal or informal.

Accordingly, the Secretary of the Treasury hereby certifies under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 146

Customs duties and inspection, Foreign trade zones, Imports, Exports.

Authority

This document is issued under authority of R.S. 251, as amended, section 3, 48 Stat. 999, as amended, section 8, 48 Stat. 1000, section 624, 46 Stat. 759 (19 U.S.C. 66, 81c, 81h, 1624).

Proposed Amendment

PART 146—FOREIGN-TRADE ZONES

It is proposed to amend Part 146, Customs Regulations (19 CFR Part 146), as set forth below:

It is proposed to amend § 146.25 by revising paragraph (d) to read as follows:

§ 146.25 Zones-restricted merchandise.

* * * * *

(d) *Merchandise entered for warehousing transferred to a zone.* Merchandise entered for warehousing and transferred to a zone, other than

temporarily for manipulation and return to customs territory as provided for in section 146.13, may be admitted to a zone in zone-restricted, nonprivileged foreign, or privileged foreign status. The warehouse entry shall be liquidated when the merchandise is admitted into the zone.

William von Raab,
Commissioner of Customs.

Approved: April 16, 1982.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

[FR Doc. 82-13077 Filed 5-12-82; 8:45 am]
BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 53

[EE-153-81]

Private Foundation Distributions; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to private foundation distribution requirements. Changes to the applicable law were made by the Economic Recovery Tax Act of 1981.

The regulations would provide the public with the guidance needed to comply with that Act and would affect all private foundations.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 12, 1982. The amendments are proposed to be effective for taxable years beginning after December 31, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T: EE-153-81, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Monice Rosenbaum of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, Attention: CC:LR:T: EE-153-81 (202-566-3422) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Regulations on Foundations and Similar Excise Taxes (26 CFR Part 53) under section 4942(d) and section 4942(j)(3)(A) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 823 of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 351) (ERTA). These regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

In General

Section 4942(a) imposes an excise tax on private foundations that fail to distribute their income for charitable purposes. To avoid liability, a private foundation must make "qualifying distributions" each year equal to the foundation's "distributable amount." Certain foundations defined as "operating foundations" are not subject to this distribution requirement. For taxable years beginning after December 31, 1981, section 823 of ERTA amends the statutory definitions of the terms "distributable amount" and "operating foundation."

Distributable Amount

Under prior law, a foundation's distributable amount was equal to the greater of the foundation's adjusted net income or its minimum investment return (generally 5% of the value of the foundation's investment assets). Under the amendment, a foundation's distributable amount is equal to its minimum investment return.

Definition of Operating Foundation

For purposes of section 4942, an operating foundation is defined as any foundation which, among other requirements, makes qualifying distributions directly for the active conduct of the activities constituing the purpose or function for which it is organized and operated.

Under prior law, an operating foundation was required to make qualifying distributions equal to substantially all of its adjusted net income. Under the amendment, an operating foundation is required to make qualifying distributions equal to substantially all of the lesser of the foundation's adjusted net income or its minimum investment return.

The amendment also provides that if a foundation makes qualifying distributions in excess of its minimum investment return but fails to distribute substantially all of such qualifying distributions directly for the active conduct of activities constituting its charitable purpose, the foundation does not satisfy the definition of an operating foundation unless it makes such distributions in an amount equal to substantially all of its adjusted net income.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is to be held, notice of the time and place will be published in the **Federal Register.**

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations is Monice Rosenbaum of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 53

Excise taxes, Foundations.

Proposed amendments to the regulations

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

The proposed amendments to 26 CFR Part 53 are as follows:

1. Paragraph (b)(1) of § 53.4942(a)-2 is revised to read as follows:

§ 53.4942(a)-2 Computation of undistributed income.

* * * * *

(b) Distributable amount—(1) In general. For purposes of paragraph (a) of this section, the term "distributable amount" means—

(i) For taxable years beginning before January 1, 1982, an amount equal to the

greater of the minimum investment return (as defined in paragraph (c) of this section) or the adjusted net income (as defined in paragraph (d) of this section); and

(ii) For taxable years beginning after December 31, 1981, an amount equal to the minimum investment return (as defined in paragraph (c) of this section), reduced by the sum of the taxes imposed on such private foundation for such taxable year under subtitle A of the Code and section 4940, and increased by the amounts received from trusts described in subparagraph (2) of this paragraph.

* * * * *

2. Paragraph (a)(1) of § 53.4942(b)–1 is revised to read as follows:

§ 53.4942(b)–1 Operating foundations.

(a) Operating foundation defined— (1) In general. For purposes of section 4942 and the regulations thereunder, the term "operating foundation" means any private foundation which, in addition to satisfying the assets test, the endowment test or the support test set forth in § 53.4942(b)–2 (a), (b) and (c), makes qualifying distributions (within the meaning of § 53.4942(a)–3(a)(2)) directly for the active conduct of activities constituting its charitable, educational, or other similar exempt purpose equal in value to—

(i) For taxable years beginning before January 1, 1982, substantially all of the foundation's adjusted net income (as defined in § 53.4942(a)–2(d)); and

(ii) For taxable years beginning after December 31, 1981, substantially all of the lesser of the foundation's adjusted net income (as defined in § 53.4942(a)–2(d)) or minimum investment return (as defined in § 53.4942(a)–2(c)). If the foundation's qualifying distributions exceed its minimum investment return (but are less than the foundation's adjusted net income) substantially all of such qualifying distributions must be made directly for the active conduct of activities constituting its charitable, educational or other similar exempt purpose. However, if the foundation's minimum investment return is less than its adjusted net income and the foundation's qualifying distributions equal or exceed such adjusted net income, only that portion of the qualifying distributions equal to substantially all of the foundation's adjusted net income must be made directly for the active conduct of activities constituting its charitable, educational or other similar exempt purpose.

* * * * *

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 82-13106 Filed 5-12-82; 8:45 am]
BILING CODE 4830-01-m

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1602

Records and Reports; Elementary and Secondary Schools; Staff Information Report (EEO–5)

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed rule.

SUMMARY: The Equal Employment Opportunity Commission is proposing an amendment to its reporting regulations that cover unlawful employment practices elementary and secondary schools. The proposed amendments would reduce the filing requirement from once a year to once every two years for these employers. This change is proposed after consultation with the Office of Management and Budget and is intended to reduce the reporting burden on elementary and secondary schools as required under the Paperwork Reduction Act.

DATE: Written comments must be received on or before July 12, 1982. The Commission proposes to consider the submissions for a period of at least 10 days and thereafter to adopt final regulations.

ADDRESSES: Interested persons are invited to submit written comments regarding the revisions to Treva McCall, Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506. Copies of the comments submitted by the public will be available for review at the Social Sciences Library, Room 2003, EEOC, 2401 E Street, NW., Washington, D.C. 20506, between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Joachim Neckere, Chief, Survey Branch, phone: (703) 756–6020.

SUPPLEMENTARY INFORMATION: Section 709(c) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e–8(c), requires employers to make and keep records relevant to a determination of whether unlawful employment practices have been or are being committed and to make reports therefrom as required by the Equal Employment Opportunity Commission. Accordingly, the Commission has issued regulations which set forth the reporting requirements for various kinds of employers. Elementary-secondary schools, in their capacity as employers have been required to submit annual reports to the EEOC. The change to biennial reporting is proposed as a result of consultation with the Office of Management and Budget and is intended to reduce the reporting burden on elementary-secondary schools as required under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* If this proposal is implemented, the Commission would require affected schools to file only on even years when they are also required to file staffing reports with the Office of Civil Rights, Department of Education, thus substantially reducing the reporting burden. Note, however, that the recordkeeping requirements of § 1602.39 remain unchanged.

Some question has arisen whether the Commission must hold a public hearing prior to amending its reporting requirements because of the language of Section 709(c) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e–8(c), which provides in relevant part that:

> Every employer * * * subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed . . . and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, *after public hearing*, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. (emphasis added).

Despite that language, the Commission has concluded that the proposed modifications can be made without a public hearing. Since the decreased reporting requirement will not prejudice but will benefit school employers, the Commission concludes that a formal public hearing is not necessary.

Subsection (b) of § 1602.41 is deleted because it is superfluous, in that it provides reporting instructions for the year 1973.

This regulation has been reviewed in accordance with Executive Order 12291. It does not require regulatory impact analysis under Section 3 of that Order.

In compliance with Executive Order 12067 (43 FR 28967, July 5, 1978), The Commission has consulted with the representatives of the necessary federal departments and agencies on the revision of its Reporting Regulations.

List of Subjects in 29 CFR Part 1602

Equal Employment Opportunity, Reporting requirements, Recordkeeping requirements.

OMB Control Number: 3046–0003

The proposed regulation appears below.

PART 1602—RECORDS AND REPORTS

Section 1602.41 is revised to read as follows:

§ 1602.41 Requirement for filing and preserving copy of report.

On or before Nov. 30, 1982, and biennially thereafter, certain public elementary and secondary school systems and districts, including individually or separately administered districts within such systems, and individual schools within such systems or district shall file with the Commission or its delegate executed copies of Elementary-Secondary Staff Information Report EEO–5 in conformity with the directions set forth in the form and accompanying instructions. The elementary and secondary school systems and districts covered are: (a) every one of those which have 100 or more employees, and (b) every one of those others which have 15 or more employees from whom the Commission request the filing of reports. Every such elementary or secondary school system or district shall retain at all times, for a period of 3 years, a copy of the most recently filed report EEO–5 at the central office of the school system or district, or the individual school which is the subject of the report, where more convenient, and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 710 of Title VII, as amended. It is the responsibility of the school systems or districts above described in this section to obtain from the Commission or its delegate necessary supplies of the form.

By virtue of the authority vested in the Commission under section 709(c) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e–8(c), the Equal Employment Opportunity Commission hereby publishes the following proposed amendment to its regulations on Recordkeeping and Reports.

Signed at Washington, D.C. this 6th day of April 1982.

For the Commission.

Cathie A. Shattuck,

Acting Chairman.

[FR Doc. 82–13071 Filed 5–12–82; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 715, 717, 784, 785, 816, 817, 818, 819, 823, 824, 826, 843, and 850

Permanent Regulatory Program: Auger Mining, Blaster Certification, Experimental Practices, Prime Farmlands, Stream Buffer Zones and Fish and Wildlife, Postmining Land Use and Variances from Approximate Original Contour, Revegetation, Roads, Subsidence, and Topsoil; Notice to Extend or Reopen the Public Comment Periods.

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

ACTION: Notice of extension or reopening of public comment periods.

SUMMARY: The Office of Surface Mining (OSM) has published several proposed rules for public comment which would amend OSM's permanent regulatory program. OSM is preparing a supplemental Environmental Impact Statement (EIS) on some of these rules and therefore is extending or reopening the comment period for those rules to be covered by the EIS until the comment period on the draft EIS is closed. Notice announcing the date when the comment periods close will be published at a later date.

DATE: The comment periods on the proposed rules listed in this notice are extended or reopened until further notice.

FOR FURTHER INFORMATION CONTACT: Frank Anderson, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, 202–343–5854.

SUPPLEMENTARY INFORMATION: OSM has proposed rules and requested comments as indicated in the list of rulemakings set forth below. OSM is preparing a supplement to the Final Environmental Impact Statement on the Permanent Regulatory Program (OSM–EIS–1, January 1979) which will consider, among other things, the proposed rules on that list. To allow comments on the rulemakings to reflect the contents of the draft supplemental EIS, OSM is extending comment periods on proposed rules for which the comment periods have not yet closed and reopening comment periods which already have closed. Affected proposed rules, and dates of issuance, are indicated below. OSM encourages all interested parties to comment.

The comment periods will run until further notice and remain open at least until the comment period ends on the draft supplemental EIS. At least sixty days will be given concurrently for comment on the supplemental EIS and the proposed rules. Notice of availability of the draft supplemental EIS will be published at a later date.

The comment period for the following proposed rules are extended or reopened:

Rule	Federal Register citation	Date published
"Sedimentation Ponds".	46 FR 34784	July 2, 1981.
"Topsoil"	47 FR 10742	Mar. 11, 1982.
"Experimental Practices".	47 FR 12082	Mar. 19, 1982.
"Auger Mining"	47 FR 12088	Mar. 19, 1982.
"Revegetation"	47 FR 12596	Mar. 23, 1982.
"Blaster Certification	47 FR 12779	Mar. 24, 1982.
"Fish & ildlife"	47 FR 13466	Mar. 30, 1982.
"Postmining Land Use & Variances from Approximate Original Contour".	47 FR 16152	Apr. 14, 1982.
"Roads"	47 FR 16592	Apr. 16, 1982.
"Subsidence & Concurrent Surface & Underground Mining".	47 FR 16604	Apr. 16, 1982.
"Prime Farmlands"	47 FR 19075	May 3, 1982.

OSM also has proposed changes to its rules governing inspection and enforcement (46 FR 58464, December 1, 1981). Rules with regard to OSM's authority to take enforcement action in oversight were included within that proposal. See proposed 30 CFR 843.12(a)(2). OSM will soon issue final rules pursuant to that proposal. (*See* Notice of Intent, April 21, 1982, 47 FR 17269). However, a final rule governing OSM's authority to take enforcement action in oversight will be deferred pending its inclusion within the supplemental EIS. Thus, the comment period on that portion of the December 1, 1981, proposal also is reopened until further notice.

Dated: May 5, 1982.

J. Steven Criles,

Deputy Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 82–13065 Filed 5–12–82; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 901

Public Disclosure of Comments Received From Federal Agencies on the Alabama Proposed Program

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

ACTION: Disclosure of comments on the Alabama Proposed Program from Federal Agencies.

SUMMARY: Before the Director, OSM, may approve state regulatory programs submitted under section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Director has solicited comments from these agencies on the Alabama program, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining Reclamation and Enforcement, 530 Gay Street SW., Suite 500, Knoxville, Tennessee 37902, Telephone: (615) 971–5104

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 L Street NW., Washington, D.C. 20240, Telephone: (202) 343–7896

Alabama Surface Mining Commission, Central Bank Building, Second Floor, 811 Second Avenue, Jasper, Alabama 35501, Telephone: (205) 221–4130

FOR FURTHER INFORMATION CONTACT: John T. Davis, Assistant Regional Director, Region II, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street SW., Suite 500, Knoxville, Tennessee 37902, Telephone: (615) 971–5103.

SUPPLEMENTARY INFORMATION: The Director, OSM, is evaluating the proposed regulatory program resubmitted by Alabama for his review on January 11, 1982. See the January 15, 1982, **Federal Register** (47 FR 2338–2340). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), Alabama's program may not be approved until the Director has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program amendment as proposed. In this regard, the following Federal agencies were invited to comment on the Alabama program:

Department of Agriculture:
- Soil Conservation Service
- Forest Service
- Agricultural Stabilization and Conservation Service

Advisory Council on Historic Preservation

Department of Labor:
- Mine Safety and Health Administration

Environmental Protection Agency

Water Resources Council

Department of Energy

Department of the Interior:
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Bureau of Reclamation
- Fish and Wildlife Service
- Mineral Management Service
- National Park Service
- Geological Survey

U.S. Army Corps of Engineers

Tennessee Valley Authority

Of those agencies invited to comment, OSM received comments from the following offices:

Environmental Protection Agency

Department of the Interior:
- Fish and Wildlife Service
- Mineral Management Service
- Tennessee Valley Authority

These comments are available for review and copying during business hours, at the locations listed above under "Addresses."

Dated: May 10, 1982.

William B. Schmidt,

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

[FR Doc. 82–13062 Filed 5–12–82; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340–21]

Privacy Act of 1974; Personal Privacy and Rights of Individuals Regarding Personal Records

AGENCY: Department of the Army, DOD.

ACTION: Notice of proposed rule making—Privacy Act.

SUMMARY: The Army proposes to add an exemption rule for proposed system of records A0404.02DAJA, entitled: "Courts-Martial Files."

DATE: Written comments may be submitted to Headquarters, Department of the Army, the Judge Advocate General's Office, The Pentagon, Washington, D.C. 20310 on or before June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of the Adjutant General, Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, Va., telephone: 703/325–6163.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 505

Privacy.

Accordingly, if this exemption is adopted § 505.9 of Title 32 of the Code of Federal Regulations will be amended by adding the following:

§ 505.9 Exemption rules for Army systems of records.

* * * * *

Exempted Record Systems

ID—A0404.02DAJA.

SYSNAME—Courts-Martial Files.

Exemption—All portions of this system which fall under Title 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C. 552a: (d)(2), (d)(3), (d)(4), (e)(2), (e)(3), (e)(4)(H), and (g).

Authority: Title 5 U.S.C. 552a(j)(2).

Reasons—Courts-martial files are exempt because a large body of existing criminal law governs trials by court-martial to the exclusion of the Privacy Act. The Congress recognized the judicial nature of court-martial proceedings and exempted them from the Administrative Procedures Act by specifically excluding them from the definition of the term "agency" (Title 5 U.S.C. 551(1)(F)). This definition is applicable to the Privacy Act (Title 5 U.S.C. 552a(1)). Substantive and procedural law applicable in trials by court-martial is set forth in the Constitution, the Uniform Code of Military Justice (UCMJ), Manual for Courts-Martial, United States, 1969 (Revised edition), and the decisions of the U.S. Court of Military Appeals and Courts of Military Review. The right of the accused not to be compelled to be a witness against himself and the need to obtain accurate and reliable information with regard to criminal misconduct necessitate the collection of information from sources other than the individual accused. Advising the accused or any other witness of the authority for collection of the information, the purpose for which it is to be used, whether disclosure is voluntary or mandatory, and the effects on the individual of not providing the information would unnecessarily disrupt and confuse court-martial proceedings. It is the responsibility of the investigating officer or military judge to determine what information will be considered as evidence. In making the determination, the individual's rights are weighed against the accused's right to a fair trial. The determination is final for the moment and the witness' failure to comply with the decision would delay the proceeding and may result in prosecution of the witness for wrongful refusal to testify.

In a trial by court-martial, the accused has a unique opportunity to assure that his record is accurate, relevant, timely, and complete as it is made. He has the right to be present at the trial, to be represented by counsel at general and special courts-martial, and to consult with counsel in summary courts-martial, to review and challenge all information before it is introduced into evidence, to cross-examine all witnesses against him, to present evidence in his behalf, and in general and special courts-martial, to review and comment upon the record of trial before it is authenticated. Procedures for correction of the record are controlled by

paragraphs 82, 86, and 95, Manual for Courts-Martial, 1969 (Revised edition). After completion of appellate review, the record may not be amended. Article 76 of the Uniform Code of Military Justice (10 U.S.C. 876) provides that the proceedings, findings, and sentences of courts-martial as approved, reviewed of affirmed are final and conclusive and binding upon all departments, courts, agencies, and officers of the United States subject only to action upon a petition for new trial (Article 73, UCMJ), action by the Secretary concerned (Article 74, UCMJ), and the authority of the President.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 7, 1982.

[FR Doc. 82-12992 Filed 5-12-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 09-82-04]

Establishment of Special Anchorage Area Fish Creek Harbor, Fish Creek, WI

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the Town Board of Gibraltar, Wisconsin, the Coast Guard is proposing to establish a special anchorage in Fish Creek Harbor, Fish Creek, Wisconsin. The establishment of the special anchorage is needed to accommodate vessels now anchoring for extended periods of time within the harbor. The proposal would enhance navigational safety by alerting, through depiction on appropriate nautical charts, transiting vessels that unlighted vessels or vessels not sounding fog signals may be present in the anchorage.

DATE: Comments must be received on or before June 14, 1982.

ADDRESSES: Comments should be mailed to Commander, Marine Port Safety, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199. The comments and other materials referenced in this notice will be available for inspection or copying at Marine Port Safety Office, room 2019, 1240 East 9th Street, Cleveland, OH 44199. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ensign Steven J. Boyle, Marine Port Safety Office, 1240 East 9th Street, Cleveland, OH 44199 or phone (216) 522-3918.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addressed, identify this notice CGD 9-82-04, and the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this notice are Ensign Steven J. Boyle, Project Officer, Ninth Coast Guard District Marine Port Safety Office, and Lieutenant M. Eric Reeves, Project Attorney, Ninth Coast Guard District Legal Office.

Discussion of Proposed Rule

The proposed special anchorage area lies in Fish Creek Harbor located on the Western shore of the Door County peninsula approximately 22 miles northeast of the City of Sturgeon Bay, Wisconsin. It has a moderate concentration of recreational boating activity and the area is now being used as a small boat anchorage. Establishment of the Special Anchorage Area would rearrange existing buoys so as to reduce present crowded mooring conditions, thereby encouraging safer boating in the harbor of Fish Creek. Regulated mooring in the Special Anchorage Area should also improve the flow of vessel traffic in the harbor.

As provided by rule 9 of the Great Lakes Rules of the Road (33 U.S.C. 258), this proposed rule would allow anchoring of vessels of not more than 65 feet in length without displaying anchor lights. Moreover, barges, canal boats, scows and other nondescript craft may display only one anchor light where two would otherwise be required. Depiction of the proposed special anchorage on appropriate nautical charts will enhance navigational safety by alerting vessels to the presence of vessels anchored without lights.

An environmental review of the proposal has been performed by the Ninth Coast Guard District Planning Staff who determined that the proposed action will have no significant impact. Preparation of an environmental assessment was not required since the action was found to be catergorically excluded in accordance with Section 2-B(3)(g) of COMDTINST M16475.1A.

This proposed regulation is considered to be nonsignificant in accordance with guidelines set out in the "Policies and Procedures for Simplification, Analysis and Review of Regulations" (DOT Order 2100.5 of May 22, 1980). An economic evaluation of the proposal has not been conducted since its impact is expected to be minimal. The establishment of such special anchorage is not a matter on which there is substantial public interest of controversy, nor does it involve impacts on competition business, State and local government, or the regulations of other programs and agencies. Moreover, this proposal is not a major rule as defined by Executive Order 12291 of February 17, 1981. This proposal once enacted, will not affect the economy to any measurable degree, result in any increase in costs or prices for comsumers, individual industries, Federal, State, or local government agencies or geographic regions, or result in any adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign enterprises in domestic or export markets.

Likewise it is hereby certified that this proposal will not, if promulgated have any significant economic impact on a substantial number of small entities, as described in the Regulatory Flexibility Act (Pub. L. 96-3545, U.S.C. 601, et seq.). This certification is made in accordance with section 605 of Title 5 of the United States Code. The sole effects of this proposal, as described above, are: Enabling users of the special anchorage to anchor without using lights, depiction of the special anchorage on appropriate nautical charts, and the subsequent provision of an added margin of safety for the area.

List of Subjects in 33 CFR Part 110

Anchorage ground.

PART 110—ANCHORAGE REGULATIONS

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, by adding § 110.79c to read as follows:

§ 110.79c Fish Creek Harbor, Fish Creek, WI.

The area of Fish Creek Harbor North of the public swimming beach within the following boundary:

Beginning at latitude 87°14'05" and longitude 45°07'44"; thence 270°10'60'; thence 230°30', 200.00 feet; 315°50' 290.00 feet; thence 30°40'; 330.00 feet; thence 326°00', 330.00 feet; 52°10', 620.00 feet; thence 160°30, 610.00 feet; thence 139°10', 185 feet; thence 226°10' 438.81 feet, 270°10', 65.12 feet to the point of beginning.

(33 U.S.C. 180, 258, 322, 471; 49 U.S.C. 1655(g)(1); 49 CFR 1.46(c); 33 CFR 1.05–1(g))

Dated: April 13, 1982.

Henry H. Bell,

District Commander, Ninth Coast Guard.

[FR Doc. 82-12731 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CCGD8-82-10]

Safety Zone; Calcasieu Channel, Industrial Canal, Calcasieu River, Lake Charles, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: On 2 March 1981, Trunkline LNG Company submitted an application to the USCG Captain of the Port, Marine Safety Office, Port Arthur, Texas, requesting a safety zone be established around their waterfront facility. The Trunkline LNG facility is located in the Industrial Canal, Calcasieu River, Lake Charles, LA. A permanent safety zone would be established around the facility, and a moving safety zone would be established around a non-gas free LNG vessel while transiting to and from the Trunkline facility. The safety zone would be established to insure the safety of the port and security of the facility. The proposed rule would require permission from the Captain of the Port or the District Commander to enter the safety zone.

DATE: Comments on this proposal will be received until June 28, 1982.

ADDRESS: Comments should be mailed to Commanding Officer, U.S. Coast Guard Marine Safety Office, Federal Building—Customhouse, Port Arthur, TX 77640. The comments will be available for inspection or copying at the above address. Normal office hours are between 8:00 a.m. to 4:30 p.m. Monday through Friday except holidays. Comments may be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: LCDR P. D. Mankovich, c/o Commanding Officer, U.S. Coast Guard Marine Safety Office, Federal Bldg.—Customhouse, Port Arthur, Texas, 77640, Tel: (713) 983–8238.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CCGD8–82–10), the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

These rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal person involved in the drafting of the rulemaking and Project Officer is LCDR P. D. Mankovich, Chief of Operations, Marine Safety Office, Port Arthur, Federal Bldg.—Customhouse, Port Arthur, Texas 77640, Tel: (713) 983–8238. The project attorney is LT J. C. Helfrich. c/o Commander, Eighth Coast Guard District (dl), Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Tel: (504) 589–6188.

Discussion of Proposed Rule

On 2 March 1981, Trunkline LNG Company submitted an application to the USCG Captain of the Port, Marine Safety Office, Port Arthur, Texas requesting that a safety zone be permanently established around the Trunkline LNG waterfront facility. The Trunkline facility, a 170.46 acre tract of land, is located on the north shore of the Lake Charles Harbor and Terminal District Canal Turning Basin. The shoreline of the facility is marked throughout its length with chain link fence which runs parallel to the waterfront and extends out to the water at each end of the property line. The shoreline bank of the facility contrasts in color and construction to that of neighboring property, thus readily discernable to a mariner. Warning signs are posted along the waterfront describing the safety zone. Permanent private aids to navigation (flashing green lights, 2.5 seconds period; flash length .5 second) are fixed to each of four mooring dolphins adjacent to the shoreline of the facility. The entire perimeter of the Trunkline Terminal is well illuminated by lights to an intensity level of 2.5 foot candles during hours of darkness. The west corner of the facility at the waterfront is 260 feet west, 19 feet north of Mooring Dolphin No. 1 light. The east corner is 1410 feet east, 360 feet north of Mooring Dolphin No. 7 light.

The facility has been built to offload liquified natural gas tankships to large storage tanks on land. A ship is tentatively scheduled to be offloaded every five days. LNG will be continuously circulated through pipelines on the unloading platform even when a ship is not in port. The unloading platform and mooring structures extend out over the water of the Industrial Canal. The safety zone was requested to insure the safety and security of the waterfront terminal by minimizing access to both the shore and related structures. It was suggested that the zone be comparable to the beam of an LNG vessel or approximately 150 feet from the bank adjacent to Trunkline LNG Company's waterfront property.

On 9 April 1981, the USCG Captain of the Port (COTP) met with Trunkline LNG Company, the Lake Charles Pilots, the local Port Authority, and industrial users of the canal to discuss the proposed safety zone. As a result of that meeting, the USCG Captain of the Port decided that the initial proposal should be modified. The COTP proposes that the safety zone encompass an area extending 150 feet out into the Industrial Canal from the shoreline contiguous to the Trunkline LNG Company's waterfront property, to include an area 50 feet out from any permanent structures along that same property, and to include an area 50 feet out from any LNG ships while moored to the Trunkline LNG facility. This proposal would at all times allow for a minimum of 400 feet of usable, navigable channel in the Industrial Canal.

Due to the restricted maneuverability of LNG vessels and the hazardous nature of their cargo, the safety zone would also encompass an area around a non-gas free LNG vessel while it was transiting both to and from the facility. This portion of the safety zone will extend 2 miles ahead, 1 mile astern, and to either side of an LNG vessel to the width of the ship channel while transiting between the sea buoy and the facility. Meeting, crossing or overtaking situations would not be allowed within the safety zone unless specifically authorized by the COTP. Advance notice will be provided via Local Notice to Mariners and/or Broadcast Notice to Mariners for each LNG vessel transit.

The USCG Captain of the Port has determined that in the interests of public safety, a safety zone should be established in the Industrial Canal Calcasieu River, adjacent to the Trunkline LNG Company property. This safety zone is considered justified by reason of the hazardous circumstances and conditions involved in the transfer and storage of liquified natural gas. No person would be allowed to enter the safety zone unless authorized by the COTP or the Commander, Eighth Coast Guard District. No person would be allowed to bring or cause to be brought into the safety zone any vehicle, vessel, or object unless authorized by the COTP or the Commander, Eighth Coast Guard District. No person would be allowed to remain in the safety zone or allow any vehicle, vessel, or object to remain in the safety zone unless authorized by the COTP or Commander, Eighth Coast Guard District. Each person in the safety zone who had notice of a lawful order or direction would have to obey the order or direction of the COTP or Commander, Eighth Coast Guard District, or his authorized representative issued to carry out the order.

The proposed regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, the proposed regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (Dot Order 2100.5 of 5–22–80). An economic evaluation of the proposal has not been conducted since its impact is expected to be minimal. No vessels, other than LNG vessels, would have reason to be at the facility and transiting vessels will make up only a small percentage of the total traffic. In accordance with #605 (b) of the Regulatory Flexibility Act (94 Stat. 1164) it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Waterways.

Proposed Regulations

In consideration of the above, it is proposed that Part 165 of Title 33 of the Code of Federal Regulations be amended by adding § 165.803, to read as follows:

§ 165.803 Calcasieu Channel and Industrial Canal, Calcasieu River, Lake Charles, LA.

(a) The waters within the following boundaries are a safety zone: The area extending 150 feet out into the Industrial Canal, Calcasieu River, Lake Charles, LA, along the shoreline of the Trunkline LNG Company's waterfront property, from position 30°06'31.9" N., 93°18'22.8" W. to the end of the turning basin and to include an area 50 feet out from any LNG ships while moored to the Trunkline LNG facility.

(b) The waters within the following boundaries are a safety zone while a non-gas free LNG vessel is transiting within the Calcasieu River ship channel and between buoy "CC" and the Trunkline LNG facility: The area 2 miles ahead, 1 mile astern, and to either side of an LNG vessel to the width of the ship channel. Meeting, crossing, or overtaking situations are not permitted within the safety zone unless specifically authorized by the USCG Captain of the Port.

(c) Notice of transiting LNG vessels will be provided by Broadcast and/or Local Notice to Mariners.

(92 Stat. 1475, 1477 (33 U.S.C. 1225, 1231); 49 CFR 1.46 (n))

Dated: April 26, 1982.

J. J. Wicks,

Captain, U.S. Coast Guard, Captain of the Port, Port Arthur, Texas.

[FR Doc. 82–13074 Filed 5–12–82; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP 260043]

Crop Grouping; Proposed Amendment to Tests on the Amount of Residue Remaining in Minor Crops

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This amendment proposes a revision pursuant to provisions of the Federal Food, Drug and Cosmetic Act (FFDCA) of the Crop Group Regulations contained in 40 CFR 180.34(f) to allow for more extensive use of group tolerances for related crops. This amendment is proposed on the grounds that such changes will allow for regulatory relief by minimizing the burden of establishing tolerances for pesticide residues in/on minor crops. The proposed rule sets forth the definitions of the crop groups involved and the procedures relevant to establishment of group tolerances.

DATE: Comments must be received on or before July 12, 1982.

ADDRESS: Written comments should bear the document control number [OPP–260043] and should be submitted to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Rm. E–401, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

The public record supporting this action, including comments, will be available for public inspection in Rm. E–107 at the above address from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Charles L. Trichilo, Hazard Evaluation Division (TS–769), Office of Pesticide Programs, Environmental Protection Agency, Rm. 810, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7324).

SUPPLEMENTARY INFORMATION: This amendment is being proposed under section 408(e) of the FFDCA and revises 40 CFR 180.34(e). It is being proposed as part of EPA's policy for implementing the provisions of the Minor Use Amendments to the Federal Insecticide, Fungicide, and Rodenticide Act of 1978, (FIFRA) section 3(c)(2), and as part of the EPA's efforts on regulatory relief.

Background

The concept of utilizing crop grouping to estimate maximum pesticide residues on each commodity within a group of related commodities has been used at least since December 6, 1962 (27 FR 12100). These crop groupings were significantly modified when tolerances for negligible residues were initiated in the Federal Register of April 5, 1967 (32 FR 6059) and periodically updated to include new crops. There are presently 14 groups listed in 40 CFR 180.34(f).

On October 13, 1972, the Agency initiated a project (EPA Contract No. 68–01–0774) to explore the possibility of further expanding the concept of crop grouping. The major recommendations from this effort were received in a final report to the Agency on May 30, 1973. Those recommendations were as follows:

1. To announce the concept of group tolerances in the Federal Register as a statement of policy.

2. To request agricultural chemical firms to (a) review the multiple tolerance level crops and (b) examine all pesticide chemicals by groups to determine existing group tolerances.

3. To consider developing criteria for minor uses and minor crops.

4. To assume a leadership role in developing international pesticide residue tolerances.

5. To begin recodification of pesticide tolerance regulations.

A study of a crop grouping system which followed the general concepts used in the report submitted to the Agency was prepared for the Food and Agriculture Organization of the United Nations (ESN 0107–75–06). This crop grouping system was included in the Guide to Codex Maximum Limits for Pesticide Residues, as published by the Food and Agriculture Organization, Rome, 1978.

In December of 1975, the Agency requested the Environmental Health Advisory Committee of the Agency's Science Advisory Board (SAB) to provide advice on some aspects of the Agency's Tolerance Setting System. One aspect addressed was the issue of expanding the practice of crop grouping. The SAB replied in part that if certain conditions are met, the concept of crop grouping has merit. The conditions specified by the SAB were that crops be grouped on the basis of similar features such as surface to weight ratio, plant metabolism, cultural practice, climate and geography. Moreover, the pesticide use should be substantially similar for all crops in the grouping. The SAB also indicated that information on whether crops can be grouped should include (1) an explanation of the formulas used in extrapolating from observed pesticide residue data on one crop to estimated residue on another crop, (2) a description of the data base supporting the use of particular extrapolation formulas, (3) a description of the minimum amount of data required on crops within a group and (4) the rationale for the data base. The Agency has not chosen to develop formulas to be used in extrapolating data from one crop to another, since the crop grouping concept leads to an estimate of the maximum level of residue that could occur on any crop within the group. Thus with the group concept there is no estimation of residue levels on indivudual crops within the group. The minimum data base required for a group tolerance consists of residue data on all of the representative commodities for a group. The representative commodities were chosen based on two criteria: (1) The likelihood of a crop having the highest residue of any crop in the group and (2) the most economically important crops in the group. For example, in the group citrus, the representative commodity lemon, because of its high surface to weight ratio, meets the first criterion for a crop likely to have the highest residue within the citrus group, while sweet orange and grapefruit meet the second criterion for economically important crops.

Many miscellaneous or unique crops were not included in this crop grouping scheme, since these crops are not similar to other crops in growth habit, cultural characteristics, or botanical relationships. In addition, if these crops were not excluded, they would have to be included in the list of representative crops for their respective group. By increasing the number of representative crops, the utility of a group is decreased because residue data on more crops will be needed before a group tolerance can be granted. Thus it is more appropriate to establish individual rather than group tolerances for commodities such as the following: Asparagus, avocado, banana, figs, globe artichoke, hops, kiwi fruit, mango, mushroooms, okra, papaya, pawpaw, peanuts, persimmon, pineapples, watercress and water chestnut.

Retroactive implementation of this new crop grouping scheme could create tolerances for crops not currently included in existing § 180.34(f) groups, and revoke tolerances for crops included in the existing § 180.34(f) groups but not in the proposed groups. To avoid adverse impacts on affected parties and to achieve a systematic changeover from the existing groups to the proposed groups, all group tolerances currently in effect will remain unchanged. These existing group tolerances will remain in effect for those crops included in the crop groups definitions prior to publication of this notice. These existing group tolerances will be changed to group tolerances under the proposed groupings, when finalized, as part of the Agency's tolerance reassessment phase of the Registration Standards Program. Under the Agency's Registration Standards Program, all existing tolerances for pesticides used on food or feed crops are examined to determine if they are still appropriate in light of new scientific data and after extensions of use granted since the tolerance was established.

A "Report of the Task Group for Pesticide Tolerance Grouping" submitted to the Agency on October 17, 1978, also endorsed the concept of crop grouping. This report was authored by a special task force formed at the request of the Working Group on Registration/Classification of the State-Federal FIFRA Implementation Advisory Committee.

In addition, the Agency issued a Minor Use Policy Statement and request for information in the **Federal Register** of March 5, 1979, (44 FR 12097) in response to the Minor Use Amendments to the Federal Insecticide, Fungicide, and Rodenticide Act of 1978 (7 U.S.C. 136 et. seq.; Pub. L. 95–396; 92 Stat. 842). As part of this policy statement the Agency indicated that the system of crop grouping would be expanded in an effort to minimize the minor use registration and tolerance data requirements.

Thus the Agency is taking the initiative in further expanding the crop grouping system to allow for establishing finite tolerances for similar crops within a group when tolerances have been established or proposed for certain representative crops of the group. The Agency will expand to group tolerances, as part of the development of a Registration Standard. The implementation of this amendment to the regulations will provide for regulatory relief by reducing the amount of data that must be generated by industry. It will also reduce the paperwork burden on industry and EPA by reducing the number of petitions for tolerance.

Classification Review Status

Under Executive order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not classified as a major regulation because it will not cause an annual effect of $100 million or more on the economy; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete with foreign based enterprises.

This regulation was submitted to the Office of Management and Budget for review, as required by Executive order 12291. Any comments from OMB to EPA and any EPA responses to those comments are available for public inspection at the address given previously for inspection of public comments.

Certification Under Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (Pub. L. 96–543, 94 Stat. 1164, 5 U.S.C. 601–612), all "notice-and-comment" rulemaking which is proposed after January 1, 1981, must be accompanied by a regulatory flexibility analysis, or by a certification by the Administrator that no such analysis is necessary because the proposed amendment will not have a significant

economic impact on a substantial number of small entities.

Under secs. 408 and 409 of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 346A, 348), the Agency is authorized to establish tolerance levels, exemptions from the requirements for a tolerance, or food additive levels, for pesticides whose use results in residues on food or feed. The establishment of a tolerance or an exemption or an additive level allows a pesticide product to be registered for a particular use resulting in residues on food or feed. This generally has some beneficial economic impact on the producer, distributor, and professional applicator of the pesticide, as well as on the ultimate user of the pesticide, usually a grower or food processor, who would otherwise not be able to sell crops containing residues of the pesticide. Tolerances are currently established primarily on a crop-by-crop basis. This amendment would reduce the burden on industry, user groups or other Federal agencies attempting to establish tolerances for minor crops by allowing for administrative establishment of tolerances on minor crops. This amendment would revise the existing crop group definitions and allow for expanded use of the crop group tolerance concept.

Accordingly, I hereby certify that this regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, this regulation does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: April 23, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR Part 180 be amended by revising § 180.34 (f) to read as follows:

§ 180.34 Tests on the amount of residue remaining.

* * * * * *

(f)(1) Each of the groups included in the following table lists raw agricultural commodities that are considered to be related for the purposes of this paragraph. When there is an established or proposed tolerance for all of the representative commodities for a specific group of related commodities, a tolerance may be established for all commodities in the group. The representative crops are given as an indication of the minimum residue chemistry data base acceptable to the Agency for the purposes of establishing a group tolerance. The Agency will take a flexible approach to allow for group tolerances when data on suitable substitutes for the representative crops are available (e.g., limes instead of lemons).

(2) This group tolerance may be estabished as a result of:

(i) A petition from a person who has submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide and Rodenticide Act.

(ii) On the initiative of the Administrator.

(iii) At the request of an interested person.

(3) Since a group tolerance reflects maximum residues likely to occur on all individual crops within a group, the proposed or registered patterns of use for all crops in the group must be similar before a group tolerance is established. The pattern of use consists of the amount of pesticide applied, the number of times applied, the timing of the first application, the interval between applications, and the interval between the last application and harvest. The pattern of use will also include the type and method of application; for example, soil or foliar application, or application by ground or aerial equipment.

(4) When the crop grouping contains commodities or byproducts that are utilized for animal feed, a tolerance of exemption from tolerance for the pesticide in meat, milk, poultry and/or eggs must be established before a tolerance will be granted for the group as a whole if the pesticide transfers to meat, milk, poultry and/or eggs. In this case the representative crops include all crops in the group that could be processed such that residues may concentrate in processed food and/or feed. Processing data will be required prior to establishment of a group tolerance, and food additive tolerances will not be granted on a group basis.

(5) If maximum residues (tolerances) for the representative crops vary by more than a factor of 5 from the maximum value observed for any crop in the group, a group tolerance will ordinarily not be established. In this case individual crop tolerances, rather than group tolerances, will normally be established. By keeping the range of residues small, the Agency intends not to alter the environmental or health benefits of the present program.

(6) Alternatively, a commodity with a residue level significantly higher or lower than the other commodities in the group may be excluded from the group tolerance (e.g., cereal grains, except corn). In this case an individual tolerance at the appropriate level for the unique commodity would be established if necessary. Residue data from crops additional to those representative crops in a grouping may be required for systemic pesticides.

(7) Commodities not listed are not considered as included in the groups for the purposes of this paragraph. Miscellaneous commodities intentionally not included in any group include asparagus, avocado, banana, figs, globe artichoke, hops, kiwi fruit, mango, mushrooms, okra, papaya, pawpaw, peanuts, persimmon, pineapples, water chestnut, watercress. The commodities included in these groups will be updated periodically either at the initiative of the Agency or at the request of an interested party. Persons interested in updating this section of the CFR should contact the Minor Uses Officer of the Registration Division of the Office of Pesticide Programs.

(8) Establishment of a tolerance does not substitute for the additional need to register the pesticide under a companion law, the Federal Insecticide, Fungicide and Rodenticide Act. The Registration Division of the Office of Pesticide Programs should be contacted concerning procedures for registration of new uses of a pesticide.

Root and Tuber Vegetables Group

Commodities. Beet (*Beta vulgaris*); burdock, edible (*Arctium lappa*); carrot (*Daucus carota*); cassave, bitter or sweet, (*Manihot spp.*); Celeriac (*Apium graveolens*); chayote (*Sechium edule*); chervil, turnip-rooted (*Chaerophyllum bulbosum*); chicory (*Chichorium intybus*); dasheen (taro) (*Colocasia esculenta*); ginger (*Zingiber officinale*); ginseng (*Panax quinquefolius*); goa bean (*Psophocarpus tetragonolobus*); horseradish (*Armoracia rusticana*); Japanese artichoke (*Stachys affinis*); Jerusalem artichoke (*Helianthus tuberosus*); parsnip (*Pastinaca sativa*); potato (*Solanum tuberosum*); radish (*Raphanus satiovus*); rutabaga (*Brassica campestris var. napobrassica*); salsify, black (*Scorzonera hispanica*); salsify, Spanish (*Scolymus hispanica*); sugar beet (*Beta vulgaris*); sweet potato (*Ipomoea batatas*) turnip (*Brassica rapa*); yam (*Dioscorea spp.*); yam bean (*Pachyrhizus erosus*).

Representative commodities. Carrot, potato, radish and sugar beet.

Leaves of Root and Tuber Vegetables (Human Foods or Animal Feeds) Group

Commodities. Beet (*Beta vulgaris*); burdock, edible (*Arctium lappa*); carrot (*daucus carrota*); celeriac (*Apium graveolens*); chervil, turnip-rooted (*Chaerophyllum bulbosum*); chicory (*Cichorium intybus*); dasheen (taro) (*Colocasia esculenta*); parsnip (*Pastinaca sativa*); radish (*Raphanus sativus*); rutabaga (*Brassica campestris var. napobrassica*); salsify, black (*Scorzonera hispanica*); sugar beet (*Beta vulgaris*); turnip (*Brassica rapa*).

Representative commodities. Turnip and sugar beet.

Bulb Vegetables (Allium SSP.) Group

Commodities. Garlic (*Allium ampeloprasum, A. sativum*); leek (*Allium ampeloprasum, A. porrum, A. tricoccum*); onion (*Allium cepa, A. fistulosum*); shallot (*Allium ascalonicum*).

Representative commodities. Onion (green and bulb) and one other commodity.

Leafy Vegetables (Except Brassica Vegetables) Group

Commodities. Amaranthus, leafy (*Amaranthus giganticus*); celery (*Apium graveolens*); celtuce (*Lactuca sativa*); chervil (*Anthriscus cerefolium*); corn salad (*Valerianella oliteria*); chrysanthemum, edible-leaved (*Chrysanthemum coronarium*); chrysanthemum, garland (*Chrysanthemum spatiosum*); dandelion (*Taraxacum officinale*); dock (*sorrel*) (*Rumex spp.*); endive (*escarole*) (*Cichorium endivia*); garden cress (*Lepidium sativum*); lettuce (*Lactuca sativa*); parsley (*Petroselinum crispum*); rhubarb (*Rheum rhaponticum*); spinach (*Spinacia oleracea*); spinach, Chinese (*Amaranthus tricolor*); spinach, Malabar (*Basella rubra*); spinach, New Zealand (*Tetragonia tetragonoides, T. expansa*); Swiss chard (*Beta vulgaris var. cicla*); upland cress (yellow rocket, winter cress) (*Barbarea vulgaris*).

Representative commodities. Lettuce (head and leaf), celery and spinach (*Spinacia oleracea*).

Brassica (Cole) Leafy Vegetables Group

Commodities. Broccoli (*B. oleracea var. italica, B. oleracea var. botrytis*); broccoli, Chinese (*B. oleracea var. alboglabra*); broccoli raab (*B. campestris*); Brussels sprouts (*B. oleracea var. gemmifera*); cabbage (*B. oleracea var. capitata*); cabbage, Chinese (*B. pekinensis, B. chinensis*); cabbage, Savoy (*B. oleracea*); cauliflower (*B. oleracea var. botrytis*); collard (*B. oleracea var. acephala*); kale (*B. oleracea var. acephala*); kohlrabi (*B. olearacea var. gongylodes*); mustard greens (*B. juncea*); rape greens (*B. napus*).

Representative commodities. Broccoli, cabbage and mustard greens.

Legume Vegetables (Succulent or Dried) Group

Commodities. Beans (*Phaseolus spp.*) (includes adzuki beans, field beans, French beans, kidney beans, lima beans, moth beans, mung beans, navy beans, pinto beans, rice beans, runner beans, snap beans, urd beans, wax beans); broad beans (fava beans) (*Vicia faba*); chickpeas (garbanzo) (*Cicer arietinum*); Chinese longbean (asparagus bean) (*Vigna unguiculata subsp. sesquipedalis*); lentils (*Lens esculenta*); peas (*Pisum spp.*); (includes garden peas, field peas, sugar peas); peas, southern (*Vigna spp.*); (includes black-eyed peas, Crowder peas, cowpeas, catjang); soybeans (*Glycine max*).

Representative commodities. Beans (*Phaseolus spp.*); one succulent variety and one dried variety), lima beans, peas (*Pisum spp.*; one succulent variety and one dried variety), and soybeans.

Foliage of Legume Vegetables Group

Commodities. Plant parts of any legume vegetable included in the group legume vegetables that will be used as animal feed.

Representative commodities. Any variety of beans (*Phaseolus vulgaris*), field peas (*Pisum sativum*) and soybeans (*Glycine max*).

Fruiting Vegetables (Except Cucurbits) Group

Commodities. Eggplant (*Solanum melongena*); ground cherry (*Physalis sp.*); pepinos (*Solanum muricatum*); pepper (*Capsicum annum, C. frutescens*) (includes chili peppers, sweet peppers, bell peppers, pimentos); tomatillo (*Physalis ixocarpa*); tomatoes (*Lycopersicum esculentum*).

Representative commodities. Tomatoes and peppers.

Fruiting Vegetables (Cucurbits) Group

Commodities. Balsam pear (bitter melon) (*Mormordica charantia, M. balsamina*); Chinese waxgourd (*Benicasa hispida*); citron melon (*Citrullus lanatus*); cucumber (*Cucumis sativus*); gherkin (*Cucumis anguria*); edible gourds (*Luffa acutangula, L. cylindrica, Lagenaria spp.*); melons, including hybrids (*Cucumis melo*) (includes cantaloupe, casaba, crenshaw, honeydew melons, honey balls, mango melon, muskmelon, Persian melon); pumpkin (*Cucurbita spp., C. pepo*); squash, summer (*Cucurbita pepo var. melopepo*); squash, winter (*Cucurbita moschata, C. maxima*); watermelon, including hybrids (*Citrullus lunatus*).

Representative commodities. Cucumbers, melons (cantaloupes or muskmelon), and summer squash.

Citrus Fruits (Citrus Spp., Fortunella Spp.) Group

Commodities. Calamondin (*C. mitis*); citrus citron (*C. medica*); citrus hybrids (*Citrus spp.*); grapefruit (*C. paradisi*); kumquats (*Fortunella spp.*); lemon (*C. limon, C. jambhiri*); limes (*C. aurantifolia*); mandarin (tangerine) (*C. reticulata*); orange, sweet (*C. sinensis*); orange, sour (*C. aurantium*); pummelo (*C. maxima, C. grandis*); Satsuma mandarin (*C. unshiu*).

Representative commodities. Sweet orange, lemon and grapefruit.

Pome Fruits Group

Commodities. Apple (*Malus sylvestris*); crabapple (*Malus spp.*); loquat (*Eriobotrya japonica*); pear (*Pyrus communis*); pear, oriental (*Pyrus pyrifolia*); quince (*Cydonia oblonga*).

Representative commodities. Apple, crabapple and pear.

Stone Fruits Group

Commodities. Apricot (*Prunus armeniaca*); cherry, sour (*Prunus cerasus*); cherry, sweet (*Prunus avium*); nectarine (*Prunus persica*); peach (*Prunus persica*); plum and prune (*Prunus domestica spp.*); plum, Chickasaw (*Prunus angustifolia*); plum, Damson (*Prunus insititia*); plum, Japanese (*Prunus salicina*).

Representative commodities. Apricot, sour cherry, peach and plums (*Prunus domestica spp.*); fresh prunes.

Small Fruits and Berries Group

Commodities. Blackberry (*Rubus spp.*); blueberry (*Vaccinium spp.*); boysenberry (*Rubus spp.*); cranberry (*Vaccinium macrocarpon*); cranberry, highbush (*Viburnum trilobum*); currant (*Ribes spp.*); dewberry (*Rubus spp.*); Elderberry (*Sambuca spp.*); gooseberry (*Ribes spp.*); grape (*Vitis spp.*); huckleberry (*Gaylussacia spp.*); loganberry (*Rubus loganobaccus*); mulberry (*Morus spp.*); Raspberry, black and red (*Rubus occidentalis, Rubus strigosus*); Strawberry (*Fragaria spp.*); youngberry (*Rubus caesius*).

Representative commodities. Blackberry or other Rubus spp., blueberry, cranberry (*Vaccinium*), grape and strawberry.

Cereal Grains Group

Commodities. Barley (*Hordeum spp.*); buckwheat (*Fagopyrum esculentum*); corn (*Zea mays*); millet, proso (*Panicum miliaceum*); oats (*Avena spp.*); millet, pearl (*Pennisetum glaucum*); popcorn (*Zea mays var. everta*); rice (*Oryza sativa*); rye (*Secale cereale*); sorghum (milo) (*Sorghum spp.*); teosinte (*Enchlaena spp.*); triticale (*Triticum-Secacale hybrids*); wheat (*Triticum spp.*); wild rice (*Zizania aquatica*).

Representative commodities. Barley, corn (fresh sweet corn and dried field corn), rice, sorghum and wheat.

Forage, Fodder and Straw of Cereal Grains Group

Commodities. Forage, fodder and straw of all commodities included in the group cereal grains.

Representative commodities. Barley, corn, sorghum and wheat.

Grass Forage, Fodder, and Hay Group

Commodities. Any grass, Gramineae Family, (either green or cured) except those included in the group cereal grains, that will be fed to or grazed by livestock, all pasture and range grasses and grasses grown for hay or silage.

Representative commodities. Bermuda grass, blue grass and bromegrass or fescue.

Non-Grass Animal Feeds (Forage, Fodder, Straw and Hay) Group

Commodities. Alfalfa (*Medicago spp.*); clover (*Trifolium spp., Melilotus spp.*); lespedeza (*Lespedeza spp.*); Lupine (*Lupinus spp.*); sainfoin (*Onobrychis viciaefolia*); trefoil (*Lotus spp.*); vetch (*Vicia spp.*); vetch, crown (*Coronilla varia*); vetch, milk (*Astragulus spp.*).

Representative commodities. Alfalfa and clover (*Trifolium spp.*)

Tree Nuts Group

Commodities. Almond (*Prunus amygdalus*); beech nut (*Fagus spp.*); Brazil nut (*Bertholletia excelsa*); butter nut (*Juglans cinerea*); cashew (*Anacardium occidentale*); chestnut (*Castanea spp.*); chinquapin (*Castanea pumila*); filbert (*hazelnut*) (*Corylus spp.*); hickory nut (*Carya spp.*); Japanese horsechestnut (*Aesculis turbinata*); Macadamia nut (bush nut) (*Macadamia spp.*); pecan (*Carya illinoensis*); walnut, black, English (Persian) (*Juglans spp.*).

Representative commodities. Almond, pecan and English walnut.

Herbs and Spices Group

Commodities. Anise (*Pimpinella anisum*); balm (*Melissa officinalis*); basil (*Ocimum basilicum*); borage (*Borago officinalis*); burnet (*Sanquisorba minor*); camomile (*Anthemis nobilis*); caraway (*Carum carvi*); catnip (*Nepeta cataria*); chives (*Allium schoenoprasum*); clary (*Salvia sclarea*); coriander (*Coriander sativum*); costmary (*Chrysanthemum balsamita*); curry (*Murraya koenigii*); dill (*Anethum graveolens*); fennel (*Foeniculum vulgare*); fenugreek (*Trigonella foenum-graecum*); horehound (*Marrubium vulgare*); hyssop (*Hyssopus officinalis*); marigold (*Calendula officinalis*); majoram, sweet (Oregano) (*Origanum majorana*); majoram, wild (*Origanum vulgare*); nasturtium (*Tropaeolum majus*); pennyroyal (*Mentha pulegium*); rosemary (*Rosmarinus officinalis*); rue (*Ruta graveolens*); sage (*Salvia officinalis*); savory, summer and winter (*Satureja spp.*); sweet bay (*Laurus nobilis*); tansy (*Tanacetum vulgare*); tarragon (*Artemesia draculunculus*); thyme (*Thymus spp.*); wintergreen (*Gaultheria procumbens*); woodruff (*Galium odoreta*); wormwood (*Artemesia absinthium*).

Representative commodities. Basil, chives, dill, marjoram and sage.

[FR Doc. 82-12994 Filed 5-12-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 228

[WH-FRL-2095-5]

Ocean Dumping; Proposed Designation of Site

Correction

In FR Doc. 82-11524, appearing at page 18155, in the issue of Wednesday, April 28, 1982, make the following change:

On page 18157, in the first column, after the "Dated" line, add the following signature:

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. LVM 82-01; Notice 1]

Passenger Automobile Fuel Economy Standards

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

ACTION: Proposed rule.

SUMMARY: This notice is being issued in response to petitions by Aston Martin Lagonda, Ltd. (Aston Martin), Avanti Motor Corporation (Avanti), Checker Motors Corporation (Checker), Excalibur Automobile Corporation (Excalibur), and Rolls-Royce Motors, Ltd. (Rolls-Royce), requesting that they be exempted from the generally applicable average fuel economy standards for model year 1981–1985 cars, and that lower alternative standards be established for these companies. The Motor Vehicle Information and Cost Savings Act provides for exemptions under certain conditions for low volume manufacturers of passenger automobiles. This notice proposes that the exemptions be granted and that alternative standards be established.

DATE: Comments on this notice must be received on or before June 28, 1982.

ADDRESS: Comments on this notice must refer to the docket and notice number and should be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours are from 8 a.m. to 4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Richard L. Strombotne, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202–426–2817).

SUPPLEMENTARY INFORMATION: Section 502(a)(1) of the Motor Vehicle Information and Cost Savings Act, as amended (the Act) specified average fuel economy standards which must be met by *all* manufacturers of passenger cars. These average fuel economy standards are 18.0 mpg in the 1978 model year, 19.0 mpg in the 1979 model year, 20.0 mpg in the 1980 model year, and 27.5 mpg in the 1985 model year and thereafter. There is no indication in the Act's legislative history that Congress ever considered the particular situation and limited capabilities of the small manufacturers when it established those generally applicable standards. The Act also directed this agency to establish generally applicable standards for model year 1981–1984 cars. The agency responded to that direction in 1977 when it established standards of 22 mpg (model year 1981), 24 mpg (model year 1982), 26 mpg (model year 1983), and 27.0 mpg (model year 1984). Like Congress, the agency did not consider the capabilities of the low volume manufacturers in setting the generally applicable standards.

To avoid the inequity of subjecting the small manufacturers to these standards and making them subject to substantial civil penalties for noncompliance, Congress included a provision in the Act

permitting NHTSA to exempt the small manufacturers from the generally applicable standard. To that end, section 502(c) of the Act provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for a particular model year if that standard is more stringent than the maximum feasible average fuel economy for that manufacturer and if the NHTSA establishes an alternative standard for the manufacturer at a level representing its maximum feasible average fuel economy for that model year.

Under the Act, a low volume manufacturer is one which manufactures less than 10,000 passenger automobiles in the model year for which the exemption is sought (the affected model year) and which manufactured less than 10,000 passenger automobiles in the second model year before the affected model year. The production of each petitioner is well below that maximum. In fact, the combined annual production of all low volume manufacturers is less than 10,000 passenger automobiles. Further, the fuel consumed by these vehicles is only about one-tenth of one percent of the national daily fuel consumption of all automobiles.

In exemption proceedings for previous model years, some commenters questioned whether Congress intended the agency to use its section 502(c) authority to exempt luxury cars and sports cars. This question was resolved in *Center for Auto Safety* v. *Claybrook*, 627 F. 2d 346 (D.C. Cir. 1980). The Court held that section 502(c) gave the agency discretion to exempt any low volume manufacturer, including the manufacturer of luxury or sports cars, if the manufacturer adequately demonstrated its inability to meet the generally applicable standards. Nevertheless, the Court suggested that Congress reexamine the exemption provision. In its May 1980 report on the Auto Fuel Efficiency Act of 1980, the House Interstate and Foreign Commerce Committee declined the Court's suggestion, noting that:

The Court, of course, did not recognize the fact that under various trade agreements, Congress probably could not provide an exemption for a domestic manufacturer, while failing to provide the same opportunity for a foreign manufacturer.

In determining maximum feasible average fuel economy, the agency is required by section 502(e) of the Act to consider:

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

Section 502(c) of the Act gives NHTSA wide latitude in deciding how to structure alternative standards. The Act expressly mentions three ways of establishing those standards: (1) By setting a separate standard for each individual exempted manufacturer; (2) By dividing the automobiles of the exempted manufacturers into classes, and establishing a standard for each class; or (3) By following the example of Congress in setting the generally applicable standards and setting a single standard for all exempted manufacturers.

To implement its exemption authority under section 502(c), NHTSA issued 49 CFR Part 525, *Exemptions From Average Fuel Economy Standards*, in July 1977. That Part specifies that manufacturers can petition for an exemption for three model years and specifies the contents of the exemption petitions. In setting alternative standards for each of model years 1978–1980, NHTSA chose to issue a separate alternative standard for each manufacturer. As a result of establishing separate standards for each manufacturer by means of issuing separate proposals and final rules for each manufacturer, the process of exempting these manufacturers became very burdensome. The 17 alternative standards established for model years 1978–1980 (5 for 1978, 6 for 1979 and 6 for 1980) were established by means of 11 notices of proposed rulemaking and 11 final rules.

As a result of its experience with this disproportionate amount of time and effort involved in exempting these manufacturers, NHTSA asked Congress in 1980 to adopt an amendment altogether exempting low volume manufacturers from the average fuel economy standards. While Congress declined to exempt the low volume manufacturers entirely, it did amend the Act to include provisions for simplifying the exemption process and reducing the burden of compliance with the alternative standards. These amendments, as well as other amendments to the Act, were adopted in the Automobile Fuel Efficiency Act of 1980 (the 1980 Act). (Pub. L. 96–425, 94 Stat. 1821)

Since the amendments have not previously been applied to the agency's fuel economy exemption proceedings, the agency believes it is useful to discuss the effects of those amendments by reviewing them and their legislative history briefly. The Senate accepted the agency's legislative proposal and adopted an amendment giving the low volume manufacturers a total exemption from all fuel economy standards. The House did not go so far. It simply provided that a manufacturer could elect to consolidate applications for, and administrative determinations regarding exemptions and alternative standards for two or more of model years 1982–1984.

The conferees struck a compromise between the Senate and House approaches. The 1980 Act not only incorporates the House provision, but also contains several other provisions. First, it provides that the agency "may grant an exemption and set an alternative standard or standards for all model years covered by" an exemption application. With respect to this provision, the conference report states:

> The conferees emphasize that in establishing alternate fuel economy standards, the Secretary of Transportation may establish a single standard for the duration of the exemption.

As explained by the conference committee, the agency understands this provision as authorizing the agency to adopt the same level of standard for each of model years 1981–1985. Under this approach, the agency would be required by section 502(c) to set the standards at a level which is feasible for the exempted manufacturer in each of the five years. To satisfy the requirement, the level of the standards would have to be equal to the manufacturer's lowest annual average fuel economy during the five year period (e.g., if the manufacturer's maximum feasible average fuel economy for 1981–1985 were 20 mpg, 21 mpg, 22 mpg, 23 mpg and 24 mpg, respectively, the standard for each year must be set at 20 mgp). As explained near the end of the preamble in the section entitled "Selection of the type and level of the alternative standards," the agency has tentatively decided not to exercise the discretionary authority provided by this provision.

Second, the 1980 Act also addresses the question of the extent of information required for applications covering the 1981–1985 period. It indicates that less information is required regarding model years 1982–1985 than is required regarding model year 1981. The policy is appropriate given the limited information possessed by low volume manufacturers at any time concerning events more than one year in the future. Specifically, the 1980 Act provides:

> (a)ny application filed for model year 1981 under section 502(c) * * * before the effective date of this Act may be amended by

the applicant to make the election * * * (of consolidating the applications and proceedings for two or more model years) * * * and have such application apply for the model years covered by the election. Additional information shall not be required in connection with such application for the years covered by the election except information which the Secretary of Transportation may specifically request.

Low volume manufactuers in general. The largest of these manufacturers is Checker whose annual production is projected to be between 5,000–7,000 cars. The next largest is Rolls-Royce whose projected annual U.S. sales are between 1,300–1,800 cars. The other three petitioners will produce about 300 cars each for sale in the United States each year. With annual sales of new cars dipping to 8.5 million in 1981, the total sales of these manufacturers still represents less than 1/12 of 1 percent of the new car market.

As a result of the small size of these manufacturers' operations and the engineering staffs and the limited available capital, few fuel economy improvements can be made. Additionally, these manufacturers order many of their parts from a supplier. When they do so, they must order a three to five years' supply of the parts to reach the minimum volume which must be ordered from a particular supplier or to qualify for the volume discounts offered by the suppliers. This inventory of parts prevents a low volume manufacturer from making any quick fuel economy gains by ordering different parts. Further, the tooling investments by these companies for a model change represent a far higher percentage of their earnings than tooling investments do for larger manufacturers. Thus, the low volume manufacturers need longer model runs to amortize their investments than do the larger manufacturers.

The low volume manufacturers can be divided into two groups. One consists of those which buy their engines and driveline components from larger manufacturers such as General Motors and simply add that engine and drive train to their vehicles. The other consists of those who design and build their own engines and drive trains. Those manufacturers in the former group include Avanti, Checker, and Excalibur, while the latter group consists of Aston Martin and Rolls-Royce. The fuel economy of the former group is higher than that of the latter partially because the former group gains the advantage of the substantial technical expertise of General Motors for achieving fuel economy improvements through the use of improved engines and drive trains.

Methodology used in determining maximum feasible fuel economy levels. The methodology used in this proposal represents a combination of the two methodologies used in past rulemaking proceedings for setting alternative fuel economy standards. All of the vehicles for model year 1981 have already been produced and many of those for the current model year have already been produced. EPA fuel economy test data are available to show the exact measured fuel economy of the 1981 models of each of these manufacturers. For this model year, NHTSA can simply use the EPA fuel economy values as a baseline for its analysis, to show the actual fuel economy benefits resulting from applying the technology used by the manufacturer. To this baseline, NHTSA must add the projected fuel economy benefits for any technology which the manufacturers could have included in their vehicles, but did not do so.

For the 1982–1985 model years, the agency used regression relations to make projections of potential fuel economy from the baseline of MY 1981 fuel economy ratings. In making these projections, NHTSA used the 1981 model year vehicles as a baseline, since EPA fuel economy data exist for all of the manufacturers for that model year. The agency then considered whether there are any technological or other improvements that would be feasible for the manufacturers, whether or not the manufacturers actually plan to incorporate those technologies in the vehicles.

In discussing the levels of fuel economy feasible for each manufacturer, the agency has not included the effects of emission standards on fuel economy. Those effects are taken into consideration in a separate section later in the preamble.

The information used in making the tentative determinations about maximum feasible average fuel economy was derived from the petitions of the five low volume manufacturers for model years 1981–1985 and from their petitions and associated rulemaking notices relating to previous model years.

Technological feasibility and economic practicability. In considering whether the petitioners could improve the average fuel economy of their vehicles for the 1981–1985 model years, NHTSA examined the same methods for improving average fuel economy that it examined in establishing average fuel economy standards for 1981–1984 passenger automobiles (42 FR 33534; June 30, 1977) and alternative standards for low volume manufacturers for model years 1978–1980. These methods were weight reduction, aerodynamic improvements, engine improvements, transmission improvements, drive line improvements, reduced rolling resistance, and mix shifts.

For the purposes of this analysis, the agency has defined "economic practicability" to mean the financial capability of a manufacturer to improve its average fuel economy by developing or purchasing components for its vehicles which offer improved fuel economy for those vehicles within the time available to make such changes. The tentative results of this analysis are shown below for each of the five petitioning manufacturers.

Avanti

Avanti automobiles use the body designed by Raymond Loewy for the Studebaker Avanti in the early 1960's. The Avanti of today is a precise external replica of that now-classic sports car. Avanti considers its image to be that of a "family sports car", and uses the same engine and drive train used by General Motors on the Chevrolet Corvette. The axle ratio for these cars is also identical to that of the Corvette.

All Avanti vehicles are represented by a single vehicle configuration. Thus, Avanti needs to test only one vehicle to determine its corporate average fuel economy since that value equals the fuel economy of the single configuration. While this simplifies the fuel economy and emissions testing for the company, it also means that the single configuration must be certified to comply with the more stringent California emissions standards in each model year, as well as the 49-state emissions standards.

In its petition for exemption for the 1981–1985 model years, Avanti indicated that it was unable to obtain a firm commitment from its main supplier, General Motors, regarding the exact specifications or availability of engines and drive train components for model years 1983–1985. Avanti therefore requested that an alternative standard be established for it at 17.0 mpg for the period. Avanti indicated that it could not make major changes in its vehicles primarily because of its current financial position. The company's net worth is about $460,000 with a current outstanding debt of $422,000. Avanti stated in its petition that it would be unable to finance any engineering, design, and tooling costs to improve further the fuel economy of its vehicles during this period, and that any improvements would be as a result of

improvements made by General Motors in components purchased by Avanti.

Avanti did indicate that there would be some significant differences between the vehicles it would produce during this period and those that it sold in the 1980 model year. The engine size was reduced from a 350 CID V–8 to a 305 CID V–8, a 3-way catalyst was substituted for a single oxidation catalyst, and the axle ratio was reduced from 3.07 to 2.72. Additionally, the 1981–1985 Avantis will use a 4-speed automatic transmission with a lockup clutch, instead of the 3-speed automatic transmission on the 1980 models. The combined effect of these changes is estimated by NHTSA to result in an estimated fuel economy of 18.2 mpg for these vehicles in the affected period. This fuel economy level will be used as a baseline to determine Avanti's maximum feasible average fuel economy for the 1981–1985 period.

Weight reduction. In determining whether Avanti could have made weight reductions to improve fuel economy in this period, the agency has considered two options, i.e., downsizing and materials substitution. The goal of downsizing is to reduce the exterior dimensions of the automobile without significantly reducing the passenger and luggage volume of the automobile. Avanti is severely limited in its ability to make design changes that would modify the vehicle's general shape and appearance since one of its biggest selling points is that it is an exact replica of a now-classic sports car. Any changes in this appearance could significantly decrease the market for these automobiles. Further, the Avanti has a fairly heavy frame to provide crash protection performance. Accordingly, the agency has tentatively concluded that achieving weight reduction by making design changes would not be practicable for Avanti during the 1981–1985 model years. (Wherever the agency states throughout this notice it has tentatively concluded that a particular change would not be economically practicable or technologically feasible, the agency means that the change would not have been practicable or feasible for vehicles already produced and would not be practicable or feasible for vehicles yet to be produced.)

"Materials substitution", the other weight reduction option indicated above, refers to the replacement of currently used materials by lighter materials, such as aluminum, plastics, and high strength, low alloy steels. Avanti currently uses a fiberglass body, which is a very lightweight material. Further, the 4-seat Avanti has the same equivalent test weight as the 2-seat Chevrolet Corvette. Avanti purchases its engines and drive trains from General Motors, so the weight of these components is beyond the control of Avanti. After a consideration of these factors, NHTSA has tentatively concluded that it would not be technologically feasible and economically practicable for Avanti to reduce the weight of its 1981–1985 automobiles.

Aerodynamic improvements. The EPA has established fuel economy test procedures that take into account the aerodynamics of the test vehicle. Under these procedures, each test vehicle is assigned a dynamometer road load setting which reflects the vehicle's aerodynamic drag and its test weight. The value is usually assigned by use of an EPA formula which results in what is commonly referred to as the "book value". When calculated in this manner, the road load increases to the extent that the vehicle's frontal area is greater than average and to the extent that the combined area of all equipment protruding from the front view of the vehicle (e.g., exterior rear view mirrors, radio antennas, etc.) exceeds established reference values. Test vehicles are also given a higher road load setting if they do not use radial tires which are more fuel efficient than bias ply tires.

The EPA also permits a manufacturer, at its option, to use an alternative procedure to calculate the road load setting for the test vehicle. The alternative procedure, commonly referred to as "coastdown", measures the aerodynamic drag of the entire vehicle. This alternative procedure generally yields a lower road load setting than the book value for vehicles with lower than average frontal area for their particular weight class.

The Avanti's design gives it a very low drag coefficient which the company exploited by using the coastdown procedure in the 1979–1980 model years. Since the Avanti's fuel economy is measured by General Motors along with the Corvette, it is reasonable to assume that General Motors will continue to use the coastdown procedure when measuring 1981–1985 fuel economy. Additionally, all Avanti automobiles will have radial tires as standard equipment in each of these model years, so its road load setting will not be increased. Hence, the only way in which Avanti might improve its fuel economy by reducing aerodynamic drag and rolling resistance would be through design changes to the automobiles.

As explained above in the section titled *Weight reduction*, one consequence of Avanti's building copies of the famous Studebaker sports car is that the company's ability to modify the vehicle's general shape and appearance is quite limited. Since the frontal area of the car is already well below average for its test weight class, any changes to improve the aerodynamic drag necessarily involve modifying the car's shape and appearance. Small improvements to the body such as front air dams and low drag mirrors might conceivably be made. However, the benefits of those changes would have to be verified through conducting costly wind tunnel testing. Accordingly, NHTSA tentatively concludes that it would not be economically practicable for Avanti to improve the fuel economy of its 1981–1985 models by means of aerodynamic improvements.

Engine improvements. This agency has also considered whether Avanti could further improve the fuel economy of its 1981–1985 automobiles by using a smaller engine or an alternative emission control system. As noted above, Avanti purchases its engines from General Motors and does not have the engineering or production capabilities to design and build its own engine. Therefore, its choice of engine is limited by the types that are available from other manufacturers. Avanti has used the same engine as the Corvette since the mid-60's and currently uses the 305 CID V–8 engine used in the Corvette.

Conceivably, Avanti could use a smaller General Motors engine. However, there are two reasons it does not plan to do so. First, Avanti believes that its automobiles must be fairly high performance automobiles in order to maintain its image as a sports car. It is therefore reluctant to use a smaller engine than the Corvette. Since the Avantis have the same curb weight as the Corvette, the use of a smaller engine would almost certainly give the Avantis lower performance than the Corvette, and possibly reduce the demand for its vehicles.

Second, Avanti's automobiles are tested for emissions and fuel economy by General Motors along with the Corvette. If Avanti uses a different engine than the Corvette engine, this testing would not be possible, and Avanti would have to conduct the tests itself. Since EPA certification has been previously estimated by NHTSA to cost between $60,000 and $85,000, Avanti would be under a substantial financial strain if it did its own testing. After considering these factors, NHTSA has tentatively determined that it would not

be economically practicable for Avanti to use a smaller engine on its 1981–1985 automobiles.

As regards the emission control system, Avanti has indicated that it will use a 3-way catalyst on its 1981–1985 automobiles. This system represents the current state of the art with respect to controlling emissions with a minimal sacrifice of potential fuel economy. Accordingly, NHTSA has tentatively concluded that it would not be technologically feasible for Avanti to improve its fuel economy in the 1981–1985 model years by using an alternate emission control system.

Transmission improvements. Avanti purchases its transmission from General Motors, and will receive a 4-speed automatic transmission with a lock-up clutch in the torque converter during the 1981–1985 model years. In the final rule establishing generally applicable average fuel economy standards for 1981–1984 model year passenger cars, NHTSA Noted that the use of this type of transmission could improve fuel economy as much as 10 percent over the levels obtained by using a standard 3-speed automatic transmission. Since Avanti is using the most efficient type of automatic transmission currently available, NHTSA has tentatively concluded that it would not be technologically feasible for Avanti to improve its fuel economy as a result of transmission improvements.

Reduction of rear axle ratio. In setting fuel economy standards in the past, the agency has noted that a reduction of the rear axle ration will generally result not only in fuel economy improvements, but also in a decline in the vehicle's performance. The agency has also noted that when these fuel economy gains can be realized by reducing the rear axle ratio, they can be implemented very economically.

As noted above, the rear axle ratio to be used on Avanti's 1981–1985 automobiles will be 2.72:1, a reduction from the 1980 ratio of 3.07:1. Avanti's current ratio is comparable to or less than that used for other high performance cars. In NHTSA's technical judgment, it would not be feasible for Avanti to further reduce its rear axle ratio and maintain a sports car image. As already noted, maintaining that image is deemed a significant factor for Avanti's sales. Because of this, NHTSA tentatively concludes that it would not be economically practicable for Avanti to further improve the fuel economy of its 1981–1985 models be reducing the rear axle ratio.

Mix shifts. The term "mix shifts" as used in prior NHTSA fuel economy rulemaking, refers to a manufacturer's decreasing its sales of its lower fuel economy models and increasing the sales of its higher fuel economy models. Since Avanti markets only one model, it is unable to increase its average fuel economy through the use of mix shifts.

After a consideration of the above factors, NHTSA has tentatively determined that a fuel economy level of 18.2 mpg is the highest fuel economy level that would be technologically feasible and economically practicable for Avanti in each of model years 1981–1985.

Checker

According to Checker, its automobiles are designed to serve as taxicabs, which requires those automobiles to have a large passenger carrying area and large luggage capacity. Thus, the automobiles have, in Checker's words, "a flat floor in the rear compartment, chair-height seats, larger interior volume with ample headroom, and large door openings for ease of entry and exit." The Checker automobiles have either six, eight, or nine designated seating positions.

In addition to a large passenger and cargo carrying capacity, Checker asserts that its automobiles are also designed for maximum durability and ease of maintenance. As examples of its efforts to ensure low maintenance costs, Checker cites its use of bolt-on front and rear fenders, interchangeble aluminum bumpers on the front and rear, and the same vehicle design since 1956. This constancy of design has permitted taxicab fleet owners to use parts from scrapped vehicles as replacement parts for newer Checkers.

Checker will sell four different vehicle configurations during the 1981–1985 model years. All models will be certified to the more stringent California emissions standards, as well as the 49-state emission standards, so that they can be sold in any of the 50 states, according to the demand. The first configuration is the Checker 229 CID V–6. This model will represent the bulk of Checker's sales for the 1981 model year (about 3100 of Checker's total sales of 3800), but production of this model will decline, so that in 1985 it will represent only 500 units in Checker's projected total sales of 6900.

The second model will be the 267 CID V–8. Production of this model will also decline from 565 units in 1981 to 200 in 1985. The third model has a 350 CID diesel V–8. Production of this model will increase from 105 units in 1981 to 200 units in 1985. One problem with increasing production of this model is that Checker cannot get many diesel engines from General Motors since that company gives priority to its own divisions.

The fourth model will be an all new, downsized Checker to be introduced in the 1983 model year. This model will be powered by a new General Motors engine, a 173 CID V–6. It is expected to represent most of Checker's sales by 1985 (6000 out of 6900). Based on its projections of the sales of each of these models, Checker estimated its average fuel economy as follows:

	Miles per gallon
1981	18.3
1982	18.4
1983	19.8
1984	20.9
1985	21.5

NHTSA will use these projections as a baseline to determine the highest fuel economy level that is technologically feasible and economically practicable for Checker.

Weight reduction. As noted above, Checker will make a significant weight reduction to its best selling model through its introduction of the new model in the 1983 model year. This weight reduction will employ both downsizing and materials substitution, resulting in a weight reduction of 750 pounds. In the face of this significant weight reduction, the major question to be resolved is whether this weight reduction could be accomplished earlier than the 1983 model year.

Checker explained that its limited resources and the risks inherent in changing its basic model would not permit it to advance its timetable for introduction of the new model. Further, the substantial investment of money and manpower in developing the new model would not leave it any unused resources with which to reduce the weight of the current models prior to the introduction of the new model. In any case, the money invested in reducing the weight of the current model would be ill-spent, according to Checker, because it expects to phase the now-current model out of production in the mid to late 80's. Given the significant investments being made by Checker to reduce its vehicle weight, NHTSA has tentatively concluded that any further weight reduction by Checker would not be economically practicable for the 1981–1985 model years.

Aerodynamic improvements. Checker presumably used the book value to determine the road load setting for its MY 1981–82 cars and will continue to use it for its current model cars in MY 1983–85 since the frontal area of these

vehicles is larger than average. The only way to reduce the aerodynamic drag of these vehicles would be to redesign their bodies. For the same reasons explained above (i.e., the investment by Checker in its 1983 downsizing program), the agency has tentatively concluded that fuel economy gains for the 1981 and 1982 Checker automobiles by means of aerodynamic improvements would not be economically practicable.

Checker plans to use the coastdown test to determine the road load setting for the new model to be introduced in model year 1983 because its frontal area will be below average for its weight class. As a result of the improved aerodynamic shape, and the use of the coastdown procedure, Checker estimates that its road load setting will decrease from the 14.6 used for its current basic model to 7.3. This 50 percent reduction in road load setting will occur partly as a result of the weight reduction and partly as a result of the improved aerodynamics of the vehicle. Further, all Checker models will be equipped with radial tires for the 1981–1985 model years, rather than the bias tires used prior to the 1981 model year. This means that no increment will be added to the road load setting for not using radial tires.

After considering all of these factors, NHTSA has tentatively concluded that no further fuel economy gains as a result of aerodynamic improvements would be technologically feasible and economically practicable for Checker for the 1981–1985 model years.

Engine improvements. NHTSA has considered whether Checker could have made further fuel economy gains by using a smaller engine or an alternative emission control system on its 1981–1985 models. As regards the basic Checker model for the 1981–1982 model years, the 229 CID V–6, it would not be feasible, in this agency's technical judgment, to use a smaller V–6 engine in vehicles with the current weight (4,000 pounds). If a smaller engine were used, the increased loading on the engine would almost certainly force Checker to use less than optimal timing to control the emissions, thereby negating any potential fuel economy gain. Additionally, the acceleration capabilities of a smaller engine in a car that is the size of a Checker and that is used as a taxi would almost certainly prove unsatisfactory to potential purchasers.

The 267 CID V–8 engine used by Checker in its 8-cylinder model is the smallest 8-cylinder engine made by General Motors, the engine supplier for Checker. The 350 CID diesel V–8 is not the smallest diesel engine manufactured by General Motors. It is, however, the only size diesel engine which General Motors makes available to Checker, and, therefore, no change is possible for Checker.

Finally, the 173 CID V–6 engine which Checker will use on its new basic model beginning in 1983 represents a significantly smaller engine than Checker has ever used on its automobiles. Given the stated desire of Checker for durability and the need for its vehicles to carry heavy loads, the agency cannot say that a four-cylinder engine could be used to further improve the fuel economy of these vehicles. An overloaded engine in a Checker could actually decrease fuel economy and shorten the engine's life. After considering each of these engine sizes, NHTSA has tentatively concluded that it would not be technologically feasible and economically practicable for Checker to use a smaller engine on its 1981–1985 vehicles.

Regarding the emission control system, Checker will use a 3-way catalyst on its 1981–1985 vehicles. Since this represents the current state of the art, NHTSA has tentatively concluded that no fuel economy improvements would be possible for Checker by using a more efficient emission control system.

Transmission improvements. As previously noted, Checker purchases its transmissions from General Motors. Checker plans to continue to use the GM THM–400 automatic transmission on its current, larger models. This is a heavy duty transmission with three speeds, and is not available with a lock-up clutch. This is not the most fuel-efficient transmission which could be used by Checker.

However, Checker stated that it will not switch to a more fuel-efficient transmission for their current, larger cars because of their concern about the durability of the available, smaller transmissions. Checker stated that durability is one of the most important features of its vehicles for marketing purposes. Use of a lighter duty transmission in a heavy vehicle such as the large body Checker could adversely affect the durability of the vehicle. Further, General Motors has no plans to add a lockup clutch to the THM–400 transmission since the company will not use this transmission in its downsized cars of the future. Given the particular duty cycle of the transmission of a car being used in taxi service, NHTSA has tentatively concluded that it would not be economically practicable for Checker to improve the fuel economy of its larger 1981–1985 vehicles by using a more fuel-efficient transmission. The downsized Checker model to be introduced in MY 1983 will use a 4-speed transmission with a lockup clutch. Since this is the most fuel-efficient type of automatic transmission, NHTSA tentatively concludes that it would not be technologically feasible for Checker to improve the fuel economy of that new model by using a more efficient transmission.

Reduction of rear axle ratio. Checker's current models use a rear axle ratio of 2.72:1. The use of a lower ratio does not appear feasible for these vehicles since the inertia weight is high and the engine displacement is relatively low. A lower axle ratio would give the vehicles lower acceleration capabilities and probably increase exhaust gas emissions because of higher engine loading. Additionally, Checker purchases the axle gear assembly from Dana Corporation, who manufactures the assembly for Ford Motor Company. By purchasing an assembly also purchased by Ford, Checker pays less for the assembly than it would pay if it had a special assembly manufactured for it. Based on these factors, NHTSA has tentatively concluded that it would not be technologically feasible and economically practicable for Checker to improve its 1981–1985 fuel economy by using a lower rear axle ratio for its larger models.

Checker will use an axle ratio of 2.84 on its downsized model. This axle ratio was selected in conjunction with the new engine and drivetrain, and the fuel economy of this model is substantially higher than the fuel economy of the larger models. The agency will not second-guess a low volume manufacturer on its choices of individual components because the agency does not have all of the economic data considered by the manufacturer. This policy seems especially prudent when the net effect is a substantial fuel economy improvement over existing models. Accordingly, NHTSA tentatively concludes that it would not be technologically feasible and economically practicable for Checker to improve the fuel economy of its downsized model by using a lower axle ratio.

Mix shifts. For 1983–1985, Checker will be selling a high percentage of its most fuel-efficient model, the new downsized model. It will be attempting to shift as many purchasers to this model as it can, so further mix shifts are tentatively judged to be infeasible for Checker during this period.

For 1981–1982, the question is whether the market would permit Checker to shift its V–8 model customers to its V–6 or its diesel models. Checker's 8-

cylinder models are generally ordered by taxicab fleet owners along with all the 6-cylinder automobiles those fleet owners need. The 8-cylinder models are larger inside and are frequently used as limousines. These models also offer the higher horsepower to weight ratios typically needed in cars used as taxis. Thus, there is reason to believe that these fleet owners would not order more 6-cylinder Checker automobiles if Checker restricted the availability of its 8-cylinder models. Instead, the fleet owners would likely look elsewhere for automobiles to be used as limousines. Checker could not shift these owners to a purchase of its diesel model because it is already using all the diesel engines General Motors will make available to it. Thus, restricting the availability of its 8-cylinder gasoline models might cause Checker to lose a significant percentage of its sales. These considerations have caused the agency to tentatively conclude that such mix shifts would not be economically practicable for Checker during this period.

After considering these factors, NHTSA has tentatively concluded that Checker's highest fuel economy levels which are technologically feasible and economically practicable are as follows:

	Miles per gallon
1981	18.3
1982	18.4
1983	20.6
1984	22.6
1985	23.6

The figures shown above for the 1983–1985 model years are somewhat larger than requested by Checker, and are based on NHTSA's independent projections of the fuel economy achievable by Checker using the same technology on which that company based its projections.

Excalibur

This company markets two styles of passenger cars, the Phaeton and the Roadster. They are styled after Mercedes-Benz sports cars of the mid-30's. These cars have running boards, swooping fenders covering the wheels, and all of the other styling features of that period.

Although Excalibur produces two styles, a coupe and a convertible, both have similar specifications and are treated as a single vehicle configuration. Thus, Excalibur need test only one vehicle to measure its fuel economy and the resulting fuel economy figure equals the company's corporate average fuel economy for that model year. Excalibur, like Avanti and Checker, designs all of its vehicles to comply with the more stringent California emissions standards as well as the 49-state standards; so that they can be sold wherever there is a demand for them.

In its petition for exemption for the 1981–1985 model years, Excalibur requested an alternate standard set at either 13.0 or 16.0 mpg, depending on EPA's action on Excalibur's waiver request for relief from the 1981 CO emission standard. Excalibur's request was granted so NHTSA will treat Excalibur's request as one for an alternative standard of 16.0 mpg. Excalibur, like Avanti, indicated that it was unable to obtain a firm commitment from General Motors as to the components that will be provided for its MY 1983–85 models. Hence, the company did not project any fuel economy improvements for that period.

Excalibur stated in its petition that it had sustained operating losses in excess of $2 million from October 1979 through September 1980, primarily as a result of the retooling of their 1980 models to produce the Series V Excalibur, a model which the company intends to produce through the 1985 model year. A loss of this size is particularly severe for a company the size of Excalibur.

Excalibur did note that there were some significant differences between the model year 1979 and 1980 models. These changes would increase the fuel economy of the automobiles to be produced from 1981 to 1985. The most significant of these changes include using a smaller engine, switching from a 454 CID V–8 in 1979 to a 305 CID V–8 in 1980, and using a catalytic converter on its 1980 models. Additionally, Excalibur will switch from using a 3-speed automatic transmission without a lockup clutch in 1980 to a 4-speed automatic transmission with a lockup clutch for its 1981–1985 models. Excalibur's 1980 fuel economy was 16.2 mpg. By calculating the fuel economy improvements which are projected to result from the use of a more efficient transmission for the 1981–1985 model years, NHTSA projects that Excalibur's fuel economy for the 1981–1985 period will be 17.9 mpg. This figure will be used as a baseline to determine the company's maximum feasible average fuel economy.

Weight reduction. Excalibur is hampered in its ability to downsize its automobiles because any modifications of the vehicle's general shape and appearance would eliminate the vehicle's most important attribute, i.e., its resemblance to a mid-30's sports car. Thus, the only form of downsizing available to Excalibur is reducing the overall dimensions of its vehicles. The length of the vehicle now is comparable to a current model Chevrolet Corvette. Excalibur has stated that it does not have the financial resources to further reduce the size. In addition, it appears that marketing considerations would prevent the company from ever being able to reduce the vehicle size. After considering the expenditures made by Excalibur in producing its Series V vehicles, NHTSA has tentatively concluded that downsizing by Excalibur would not be economically practicable.

Excalibur currently uses over 200 pounds of aluminum in the body panels of its automobiles. This represents a very significant use of light materials. The weight of the engine, drive train, emissions control equipment, and exhaust system are beyond the control of Excalibur since these are all purchased from outside sources. After considering these factors, the agency has tentatively concluded that it would not be economically practicable for Excalibur to use materials substitution to reduce further the weight of its 1981–1985 vehicles.

Aerodynamic improvements. All Excalibur automobiles will use radial tires during the 1981–1985 model years. Accordingly, the road load setting for fuel economy testing purposes will not be increased as it would be for cars with bias ply tires. Excalibur will use the coastdown method to determine its road load setting to take advantage of the fact that the frontal area of its vehicle is well below average for their inertia weight class. Hence, the only way in which Excalibur could improve its fuel economy would be to make design changes to the automobiles.

In addition to the vehicle shape, which could be modified to produce a lower drag coefficient, Excaliburs also have a significant amount of equipment mounted on the outside of the body, such as the headlights, horns, side windows, and spare tires. Making this equipment an integral part of the body or mounting it inside the vehicle would undoubtedly lower the drag coefficient. However, since the company is manufacturing vehicles designed to be evocative of mid-30's sports cars, taking these steps would conflict with the company's major selling point for its automobiles. In fact, swooping fenders, running boards, and exterior horns were distinctive features of the automobiles produced in that era. Based on these factors, NHTSA tentatively concludes that such a redesign to improve the aerodynamics of the Excalibur would not be economically practicable for the company.

Engine improvements. As noted at the outset of this discussion, all Excalibur automobiles produced in the 1981–1985 model years will use a 305 CID V–8 engine manufactured by General Motors. Excalibur could perhaps use a smaller engine, although the weight of its vehicles would almost certainly preclude the use of any 4-cylinder engines. However, Excalibur aims to produce automobiles which are evocative of classic sports cars. While its performance is not intended to equal that of sports cars like Ferraris, it is definitely intended to outperform the average car. In view of these design parameters which are so closely related to the market appeal of the Excalibur, NHTSA tentatively concludes that it would not be economically practicable for Excalibur to use a smaller engine.

As noted above, Excalibur will use a 3-way catalyst and closed loop, feed back control on all of its cars produced during the 1981–1985 period. Since this is the most advanced emission control system available, NHTSA tentatively concludes that use of a more efficient emission control system to improve fuel economy would not be technologically feasible for Excalibur.

Transmission improvements. Excalibur purchases its transmission from General Motors, and will use a 4-speed automatic transmission with a lock-up clutch for its 1981–1985 models. Since this is the most fuel-efficient type of automatic transmission currently available to Excalibur, NHTSA tentatively concludes that it would not be technologically feasible for Excalibur to improve its fuel economy by means of transmission improvements.

Reduction of rear axle ratio. The rear axle ratio used on Excalibur's 1981–1985 vehicles will be 2.72:1, identical to that used by Avanti and Checker, and purchased from the same supplier. As stated in the discussion of Avanti, NHTSA does not believe that it would be practicable to maintain a sports car image if Excalibur were to reduce this rear axle ratio. For this reason, NHTSA tentatively concludes that it would not be economically practicable for Excalibur to improve its fuel economy by reducing its rear axle ratio.

Mix shifts. Since Excalibur markets only one vehicle configuration, it is unable to use mix shifts to improve its fuel economy.

After considering all of these factors, NHTSA tentatively concludes that a fuel economy level of 17.9 mpg is the highest fuel economy level that is technologically feasible and economically practicable for Excalibur in each of model years 1981–1985.

Aston Martin

Aston Martin's automobiles are, in the words of one of the company's advertising brochures, "designed and constructed to carry its occupants as far and as fast as they may care to travel, in elegance, luxury, and safety." The car bodies are substantially built by hand, with no assembly lines in the plant. To illustrate the high performance nature of these vehicles, they have demonstrated in tests their ability to accelerate from 0–100 miles per hour (mph) and to brake back to 0 mph in 25 seconds. The luxury of the automobiles is exemplified by the use of leather seats, wool carpet, power windows and door locks, and the like. The automobiles sell for about $100,000 each.

However, Aston Martin has previously argued that it has made changes in its automobiles to improve their fuel economy. These include radial tires, aluminum body, wheels, and fuel tank, a body developed in a wind tunnel to achieve a very low aerodynamic drag, a lockup clutch on the automatic transmission models, and optimized engine settings. For the 1981–1985 model years, Aston Martin will sell its Saloon, Vantage, and Volante models with either a 3-speed automatic transmission or a 5-speed manual transmission. Since these three models have similar specifications, they are treated by the EPA as only two different vehicle configurations, one for each type of transmission. Additionally, Aston Martin will market a new model in the U.S., the Lagonda, which will be available only with an automatic transmission.

Like the other low volume manufacturers, Aston Martin certifies all of its vehicles to comply with the more stringent fuel economy standards of California, as well as the 49-state emission standards. The company follows this practice to avoid additional costly certification tests and to enable it to sell its vehicles in any State. In its petition for exemption from the 1981–1985 model years, Aston Martin stated that it could not meet the 1983–1985 California NO_x standard of 0.4 grams per mile, but ignored this in projecting its fuel economy, on the stated assumption that the law would have to be changed. Aston Martin reported that its average fuel economy for 1981–1985 would be 12.1 mpg for all model years. Agency calculations based on the most recent EPA fuel economy data show that the 1981 average fuel economy is 12.2 mpg. Using a regression equation to calculate the fuel economy for Aston Martin for the 1982–1985 model years, since no data are available on the fuel economy of the new Lagonda model, the agency found that the value of 12.2 mpg would apply for the entire period. Therefore, the value of 12.2 mpg will be used as a baseline from which to determine the maximum fuel economy level which is technologically feasible and economically practicable for Aston Martin.

Weight reduction. In a discussion of downsizing and materials substitution by Aston Martin, it is important to note its recent financial history. Aston Martin's corporate predecessor was liquidated in bankruptcy proceedings in December 1974. The current manufacturer was organized with the remaining assets. It began selling cars again in the United States in the 1979 model year, and is still not in strong financial condition. Downsizing a model involves a complete re-engineering of the vehicle, and requires a large investment of the engineering staff's time and corporate money. Given the difficulty of this task and the limited financial resources available to the company, NHTSA tentatively concludes that weight reduction by downsizing its vehicles would not be economically practicable for Aston Martin during the 1981–1985 model years.

As noted in the general discussion of this company at the outset of this analysis, Aston Martin already uses a lightweight material (aluminum) for all of its body, the block and head of the engine, and the wheels. For the same reasons noted in the Excalibur discussion, Aston Martin does not use lightweight materials in the frame of its vehicles. Given the need to protect the occupants in the event of a crash, and the total use of lightweight materials in the body panels, it would not seem feasible to reduce significantly the weight of the frame by substituting lighter materials.

Aston Martin's automobiles also include a heavy layer of sound-deadening materials around the passenger compartment, some of which could be removed to reduce weight, as well as hide leather seats and a roll bar, which could be replaced by lighter materials. However, such substitutions would require Aston Martin to change its basic concept of its automobiles. Since it began issuing these exemptions, the agency has stated that it will not require a change in the basic concept of a low volume manufacturer's automobile. For these reasons, the agency tentatively concludes that it would not be economically practicable for Aston Martin to improve its fuel economy for the 1981–1985 model years by means of materials substitution.

Aerodynamic improvements. To achieve aerodynamic improvements to its cars, Aston Martin would have to redesign the body. As explained above the section entitled "Weight reduction," Aston Martin does not appear to have either the engineering staff or corporate finances to undertake a significant redesign at this time. All Aston Martin automobiles use radial tires, so the road load setting is not increased as it would be if bias ply tires were used. NHTSA tentatively concludes that it would be technologically feasible and economically practicable for Aston Martin to improve the fuel economy of its 1981–1985 automobiles by improving aerodynamics.

Engine improvements. Aston Martin will use its 326 CID V–8 engine in all of its models for all model years. This engine was designed and assembled by Aston Martin completely by itself. Aston Martin has stated that it believes that it is the smallest automobile manufacturer in the world which has designed and built its own engine. Any significant improvements in the operating efficiency of this engine would be much more difficult for Aston Martin than for most other manufacturers, given Aston Martin's size and intention to produce a high performance vehicle. Any redesign would presumably retain the high performance capabilities of the current engine, while improving the potential fuel economy. Such a redesign would prove extremely difficult for a company with the small engineering staff and financial status of Aston Martin. After considering these factors, NHTSA tentatively concludes that use of a smaller engine by Aston Martin would not be economically practicable during the 1981–1985 model years.

Since Aston Martin will use a 3-way catalyst on all of its models during this period, NHTSA tentatively concludes that improving fuel economy by using a more advanced emission control system would not be technologically feasible.

Transmission improvements. As noted previously, Aston Martin's automobiles may be purchased with either a 3-speed automatic transmission incorporating a lockup clutch or a 5-speed manual transmission. Aston Martin purchases its automatic transmissions from Chrysler Corporation. A 4-speed automatic transmission with a lockup clutch would probably offer some slight fuel economy improvement. However, Chrysler does not manufacture this type of transmission at present. When choosing a supplier for its transmissions, Aston Martin tested the various transmissions on its engines and determined that the Chrysler transmission was the most suitable. The agency has no information to indicate that this choice was not correct, and can not second-guess Aston Martin on this. Accordingly, since Aston Martin is currently using the most fuel efficient type of automatic transmission which is offered by its supplier and is compatible with its vehicle, the agency tentatively concludes that it would not be technologically feasible and economically practicable for Aston Martin to improve its 1981–1985 fuel economy by using a more efficient type of automatic transmission.

With respect to the 5-speed manual transmission, this transmission already includes an overdrive as a fifth gear, which serves to improve fuel economy in highway driving. This fact, coupled with the inherent efficiency of a manual transmission, leads NHTSA to the tentative conclusion that it would not be technologically feasible for Aston Martin to improve the fuel economy of its 1981–1985 vehicles by means of manual transmission improvements.

Reduction of rear axle ratio. The rear axle ratios to be used by Aston Martin for the 1981–1985 model years are 3.07 on the automatic transmission models and 3.54 on the standard transmission models. These ratios are comparable to the ratios used on similar types of vehicles. For example, the axle ratio on the Chevrolet Corvette is 3.07. Further, Aston Martin argued that a reduction of the axle ratio would increase the load on the engine, thereby raising the emissions of oxides of nitrogen. In this agency's judgment, it would not be feasible for Aston Martin to lower its axle ratio while maintaining its image of being a high performance luxury sports car. Maintaining that image is deemed a significant factor for Aston Martin's sales. As a part of the concept of economic practicability, NHTSA does not consider it practicable for low volume manufacturers to change the basic concept of their automobiles. Accordingly, NHTSA requires the manufacturers to improve fuel economy to the maximum feasible level for that type of automobile. In this case, Aston Martin uses an axle ratio comparable to that used on other sports cars. A further reduction might have adversely affected Aston Martin competitively and would probably have required it to sacrifice more of its performance in order to comply with the emission requirements. Accordingly, this agency has tentatively concluded that it would not be economically practicable for Aston Martin to reduce its rear axle ratio on its 1981–1985 automobiles.

Mix shifts. Aston Martin will produce three different vehicle configurations during the affected model years. Its 5-speed manual transmission models will have a combined fuel economy rating of 11.6, while its automatic models will have a combined fuel economy rating of 12.4. Its new model, the Lagonda, will have a combined fuel economy rating of 12.2. By the 1985 model year, Aston Martin has indicated that all 50 of its sales in the U.S. will be the Lagonda.

Thus, a shift from its manual transmission models to its automatic transmission models would show some fuel economy benefits, as would a shift from its Lagonda model to its currently-offered automatic transmission models. Aston Martin has been steadily increasing the percentage of its automobiles sold in the direction of its more fuel-efficient automatic transmission models. For example, in 1979, 69 percent of its models were automatic transmission models, in 1980, 75 percent were automatic transmission models, and in 1981, 82 percent were equipped with an automatic transmission. Aston Martin has indicated that the sales of its higher performance standard transmission models are necessary to maintain the company's performance image. Given the steady trend toward sales of its more efficient models, and the company's financial state, NHTSA tentatively concludes that greater mix shifts from the company's standard transmission models to its automatic transmission models would not be practicable.

By the 1984 model year, Aston Martin projects that 63 percent of its total U.S. sales will be its Lagonda model, and that this will be the only model it sells in the U.S. in 1985. This marketing move was said to be necessary because the company had not introduced a new model to the U.S. market since the mid-60's. The decision to make the Lagonda the only model is an economic move on the company's part, to reduce its costs. Obviously, it costs less to make just one model than it does to make four different models. Given the company's financial position, and its perceived need to introduce a new model in the U.S., NHTSA tentatively concludes that it would not be economically practicable for the company to continue sales of its existing models.

A consideration of these factors has led NHTSA to the tentative determination that a fuel economy level of 12.2 mpg is the highest fuel economy level technologically feasible and economically practicable for Aston

Martin in each of model years 1981–1985.

Rolls-Royce

The Rolls-Royce is a highly luxurious and expensive car. To illustrate this point, the agency notes that these cars have the walnut covering for the instrument panel and hide leather seats as standard equipment. The least expensive model of the Rolls-Royce costs $110,000.

When designing its automobiles, Rolls-Royce ensures comfort and luxury and vehicle longevity first (over 50 percent of all Rolls-Royces built since 1903 are still in service), and then tries to get maximum fuel economy out of that vehicle. Like the other low volume manufacturers, Rolls-Royce certifies each of its vehicles as complying with the more stringent California emissions standards, as well as the 49-state standards.

For the model years in question, Rolls-Royce will produce four different models. These include the Silver Spirit/Silver Spur which will account for about ⅔ of all Rolls-Royce's sales, with a combined fuel economy of 11.0 mpg for the 1981 model year, and the Corniche Coupe and Convertible, which together with the Camargue model, all have a 1981 fuel economy of 10.1 mpg. In its petition, Rolls-Royce requested the following alternate standards:

1981	10.7 mpg.
1982	10.6 mpg.
1983	9.9 mpg.
1984	10.1 mpg.
1985	10.0 mpg.

Rolls-Royce explained the decrease in its fuel economy as resulting from the more stringent California emission standards beginning in the 1983 model year. At this point in the notice, NHTSA is not considering the effects of other motor vehicle standards on achievable fuel economy (this is done in the following section entitled *Effects of other Federal motor vehicle standards on achievable fuel economy*). For the purposes of determining here what is technologically feasible and economically practicable for Rolls-Royce, NHTSA is excluding those effects and projects that Rolls-Royce's fuel economy as follows:

1981	10.7 mpg.
1982	10.6 mpg.
1983	10.6 mpg.
1984	10.7 mpg.
1985	10.7 mpg.

The decrease in the 1982 and 1983 fuel economy levels results from changes in the sales projections of the various models and is not the result of any technical changes to the vehicles. For purposes of the following analysis, NHTSA will use the figures it has projected as a baseline to determine the highest fuel economy level technologically feasible and economically practicable for Rolls-Royce during this period.

Weight reduction. With regard to the possibility of downsizing, Rolls-Royce stated in its petition that its market research has shown that any significant downsizing of its cars would meet with customer resistance. Additionally, considering the engineering staff and finances required for a downsizing program, the company believes that it would be more prudent to concentrate its weight reduction efforts on materials substitution. After considering these two factors, NHTSA tentatively concludes that it would not be economically practicable for Rolls-Royce to reduce the weight of its vehicles by downsizing in these model years.

Concerning materials substitution, Rolls-Royce currently uses aluminum for its engine crankcase and cylinder heads, transmission and axle casings, doors, hood, and trunk. The company has stated that it intends to reduce its vehicles' weight by about 250 pounds for the 1984 and subsequent model years by making further use of aluminum. The company stated that it would not use fiberglass or plastics in components because of concerns about their durability. This weight reduction will allow the company to show a two percent fuel economy gain for its model year 1984 automobiles when compared to model year 1983. Rolls-Royce also stated that it has several projects currently underway testing smaller engines in a downsized Rolls-Royce, and that these smaller engines would further reduce vehicle weight. Forcing the company to accelerate the introduction of these weight reduction measures would not be economically practicable for Rolls-Royce, because one of its strongest selling points is the high quality and durability of its vehicles. Hence, the agency tentatively concludes that it would not be economically practicable for Rolls-Royce to use materials substitution to reduce the weight of its vehicles earlier than the 1984 model year, or to a greater extent than already planned.

It should be noted that the fuel economy levels being used as a baseline for this calculation of maximum feasible average fuel economy include an increase of 250 pounds in test weight class for the EPA fuel economy tests for some models of 1982–1985 Rolls-Royce automobiles as a result of its projection in early 1981 that it would install air bags for the two front seating positions. Rolls-Royce has not modified its petition since the October 1981 rescission of the automatic restraint requirements (46 FR 54319; October 29, 1981). If Rolls-Royce does not install these air bags, the projected weight of the vehicles will be reduced in the final decision on that company's petition.

Aerodynamic improvements. The Rolls-Royce, being a large car and having its distinctive grille design for product identification purposes, has a large frontal area. The company stated that it will not use the coastdown test in the 1981–1985 period because the frontal area of the Rolls-Royce automobiles is larger than that of the average car. These automobiles therefore do not have less than the average amount of aerodynamic drag for their test weight. In these circumstances, use of the coastdown test could only increase the road load setting for the vehicles.

Any fuel economy gains from aerodynamics could only come from design changes to lower the aerodynamic drag of these vehicles. All Rolls-Royce models will be equipped with radial tires so that the road load setting will not be increased as it would if bias ply tires were used. Rolls-Royce must have longer model runs than larger manufacturers to amortize its tooling costs. This, together with the need to retain the grille design and hood ornament, leads the agency to conclude tentatively that it would not be economically practicable for Rolls-Royce to use aerodynamic improvements to make fuel economy gains in the 1981–1985 model years.

Engine improvements. It would be extremely difficult for Rolls-Royce to use a smaller engine than its current 412 V–8 on automobiles of this weight. Rolls-Royce designs and builds its own engines, so a project to reduce the engine size would require a significant investment of time and money by the company. The ratio of horsepower to inertia weight of these vehicles is 0.309. This figure is lower than the horsepower to weight ratio for domestic luxury cars. Generally, a vehicle with a horsepower to weight ratio of 0.3 can be accelerated from rest to 60 miles per hour in about 15 seconds. In the final rule establishing generally applicable standards for the 1981–1984 model years, NHTSA stated that a 0–60 mile per hour average acceleration performance would be a limiting factor in establishing the upper bounds of fuel economy benefits to be gained from performance reduction. Using the same bounds here, the agency has tentatively determined that it would not be technologically feasible and economically practicable for Rolls-

Royce to improve its fuel economy by using a small engine in the 1981–1985 model years without reducing the vehicle weight.

With respect to the emission control system, Rolls-Royce will use a 3-way catalyst on all its vehicles. Since that is the most advanced type of control system, the agency tentatively concludes that it would not be technologically feasible for Rolls-Royce to improve its fuel economy by using a more advanced emission control system.

Transmission improvements. Rolls-Royce purchases its transmissions from General Motors and uses the same heavy duty model ordered by Checker on its 1981 and 1982 models. As noted for Checker, this model is available with three, not four, forward speeds, and does not include a lockup clutch. Rolls-Royce stated that it needs this transmission because of the size of its engine and the need for durability. Since this transmission model is not offered with technological advances and because of legitimate concerns with using a smaller and lighter-duty transmission on these vehicles, NHTSA tentatively concludes that it would not be technologically feasible and economically practicable for Rolls-Royce to improve its fuel economy by using different transmissions.

Reduction of rear axle ratio. Rolls-Royce will use an axle ratio of 3.08:1 on all of its cars for the 1981–1985 period. Rolls-Royce submitted data showing that it had conducted tests on its vehicles using a lower axle ratio (2.69:1) and that the data showed a fuel economy improvement of up to 5 percent at highway speeds on its vehicles. However, the use of the lower axle ratio actually lowered fuel economy at lower speeds because of the increased amount of slip in the automatic transmission's torque converter. After considering this test result, NHTSA tentatively concludes that it would not be technologically feasible and economically practicable for Rolls-Royce to use a lower rear axle ratio in the 1981–1985 model years.

Mix shifts. Rolls-Royce will produce vehicles with two different levels of fuel economy for these model years. The models with the higher fuel economy are the less expensive models (about $110,000) while the models with the lower fuel economy are the more expensive models (up to $155,000 for the Camargue). The company's profits are obviously greater on the more expensive models. A shift toward selling more of the less expensive, higher fuel economy models, then, would reduce Rolls-Royce's profits. The company's profits fell 50 percent in 1980 from the 1979 levels. Further reductions in profits to achieve what would be minimal fuel economy gains are not judged by this agency to be economically practicable at this time. Accordingly, NHTSA has tentatively determined that it would not be economically practicable for Rolls-Royce to improve its average fuel economy for the 1981–1985 model years by means of mix shifts.

After a consideration of the above factors, NHTSA tentatively concludes that the following are the highest fuel economy levels which are technologically feasible and economically practicable for Rolls-Royce in the specified model years:

Model year	Miles per gallon
1981	10.7
1982	10.6
1983	10.6
1984	10.7
1985	10.7

Effect of other Federal motor vehicle standards on achievable fuel economy. The agency has examined the effects which Federal standards for safety, crashworthiness, emissions and noise standards will have on potential fuel economy during 1981–1985 model years. The petitioning manufacturers claimed that only two of these four types of standards would significantly affect achievable fuel economy. Rolls-Royce claimed that the need to put air bags in its automobiles manufactured after September 1981 would add about 250 pounds in weight to those vehicles. However, a determination of how much weight would be added and what effect that extra weight would have on the fuel economy of the five petitioners' vehicles is unnecessary, because this agency has rescinded the automatic restraint requirements. The agency assumes that since there is no longer a requirement for automatic restraints, no weight will be added for air bags.

Two of the petitioners (Aston Martin and Rolls-Royce) stated that the 1983 and thereafter emission standards for oxides of nitrogen (NO_x) applicable in California would impose a significant fuel economy penalty. Several of the larger manufacturers, including General Motors and Ford, have petitioned the California Air Resources Board (CARB) to reconsider the adopted level of 0.4 grams per mile for NO_x emissions. The Federal standard for 1983 and subsequent model years is 1.0 grams per mile for NO_x. The petitions state that the manufacturers will be unable to certify one or more of the engine families they produce at the 0.4 NO_x emissions level, primarily because of technical problems.

In response to these petitions, the CARB asked all affected manufacturers to participate in a technological reassessment of the 0.4 NO_x emissions standard. General Motors completed 50,000 miles of durability testing on two research vehicles designed to achieve the 0.4 NO_x emissions. They reported that the vehicles suffered a fuel economy penalty of about 7 percent with the driveability of the vehicles rated as noncommercial and borderline commercial. Based on these data and other information submitted by the manufacturers, the CARB prepared a report dealing with the NO_x emission standard for 1983 and subsequent model years.

In this report, the CARB recommended that the manufacturers be given an option to certify their vehicles for 75,000 miles at the level of the 1981/1982 California emissions standards, including 0.7 NO_x. The report states that this option was needed because most domestic manufacturers have not yet incorporated fuel injection systems. These systems would be best able to provide good fuel economy and driveability at the 0.4 NO_x emission level. If this standard were enforced as presently written, the report stated that California consumers would suffer from reduced model availability, driveability, and fuel economy. It further stated that emission control system durability would be poor. As of this writing, the action recommended in the report has not yet been adopted. Accordingly, the manufacturers must still meet the 0.4 NO_x emission standard.

As noted above in the analyses of the five petitioning manufacturers, all of these low volume manufacturers certify their entire production for compliance with the California emissions standards, as well as the 49-state emissions standards. There are two major reasons for this. One is that it costs more to produce two different types of vehicles, each certified to different emissions standards. The other is that a manufacturer which does produce two different types of vehicles can only sell as many cars in California as it certifies to those emissions standards. These low volume manufacturers need the marketing flexibility to make sales whenever and wherever there is a demand for their vehicles. Hence, each of their vehicles may be sold in any of the 50 states. The result of this dual certification is that any fuel economy penalty imposed by one or the other of the two sets of emissions standards will be imposed on all of the low volume manufacturer's vehicles.

After a consideration of the above information, the agency has tentatively determined that the 1983–1985 California emission standard for oxides of nitrogen will impose a fuel economy penalty. The

only hard data available to this agency concerning the amount of the penalty are the General Motors tests which showed approximately a 7 percent reduction in fuel economy. Accordingly, for this tentative determination of the maximum feasible average fuel economy for these manufacturers, the agency will reduce the level by 7 percent from what has been tentatively determined to be technologically feasible and economically practicable for each petitioner for the 1983–1985 model years.

NHTSA specifically requests public comment on this tentative determination. Any further information to show that the penalty would be less or greater, or that it need not occur, would be particularly useful to the agency in determining how to proceed with its final determination. The agency would also be interested in any comments on the methodology used to make this tentative determination.

The need of the Nation to conserve energy. As stated in the above analyses for the individual manufacturers, it is not technologically and economically possible for these manufacturers to achieve higher fuel economy than the stated levels. Granting exemptions to these manufacturers and setting alternative standards at those levels will not, therefore, result in any additional fuel consumption or affect the need of the Nation to conserve energy.

Listing of tentative determinations of maximum feasible average fuel economy levels achievable by the petitioners. After factoring in the 7 percent penalty for all vehicles for the 1983–1985 model years, resulting from the California emissions standards, the maximum feasible average fuel economy levels for the five petitioning manufacturers are set forth below. Commenters should note that these levels are based on fuel economy data for MY 1981 cars. If new data are obtained after the issuance of this notice, it is possible that these levels could change.

		Miles per gallon
(1) Avanti	1981	18.2
	1982	18.2
	1983	16.9
	1984	16.9
	1985	16.9
(2) Checker	1981	18.3
	1982	18.4
	1983	19.2
	1984	21.2
	1985	22.0
(3) Excalibur	1981	17.9
	1982	17.9
	1983	16.6
	1984	16.6
	1985	16.6
(4) Aston Martin	1981	12.2
	1982	12.2
	1983	11.3
	1984	11.3
	1985	11.4
(5) Rolls-Royce	1981	10.7
	1982	10.6
	1983	9.9
	1984	10.0
	1985	10.0

Selection of the type and level of the alternative standards. For each of model years 1981-1985, the agency has decided to propose establishing a single standard for each exempted manufacturer instead of setting class standards or a single standard for all exempted manufacturers. This approach permits the agency to tailor the alternative standards most closely to the individual capabilities of the different manufacturers, thus providing maximum assurance that those manufacturers will fully utilize their capabilities.

The agency considered two other approaches to setting the alternatives standards for individual petitioners. Those approaches were mentioned early in the notice during the discussion of the 1980 Act. The first of those approaches was setting an alternative standard for a manufacturer for each of the five model years at the level of the lowest of the manufacturer's annual maximum feasible average fuel economy levels for the 1981–1985 period. This approach would create the possibility that an exempted manufacturer might not achieve its maximum feasible average fuel economy in the years in which that maximum was greater than the alternative standard. The other approach is to determine is to determine a manufacturer's maximum feasible average fuel economy for the five year period and set a standard at that level for each of the five model years. Such a standard would necessarily be higher than the manufacturer's maximum feasible average fuel economy for some model years, and lower than the maximum feasible level in others. In those former years, the standard would have been inconsistent with the requirement in section 502(c) that the alternative standards be set at the level of the manufacturer's maximum feasible average fuel economy.

Proposed alternative standards. Based on its tentative conclusions that the maximum feasible fuel economies for each of the petitioner during the 1981–1985 period would be as shown above, that other Federal automobile standards would not affect achievable fuel economy beyond the extent considered in these analyses, and that the national effort to conserve energy will not be affected by the granting of these requested exemptions, NHTSA proposes to exempt the above listed manufacturers from the generally applicable 1981-1985 passenger automobile average fuel economy standards and to establish alternative standards for each of the petitioning manufacturers at the level shown above.

List of Subjects in 49 CFR Part 531

Energy conservation, gasoline, imports, motor vehicles.

PART 531—PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

In consideration of the foregoing, it is proposed that 49 CFR Part 531 be amended by revising § 531.5(b) to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

(1) Avanti Motor Corporation.

AVERAGE FUEL ECONOMY STANDARD

Model year	Miles per gallon
1978	16.1
1979	14.5
1980	15.8
1981	18.2
1982	16.2
1983	16.9
1984	16.9
1985	16.9

(2) Rolls-Royce Motors, Inc.

AVERAGE FUEL ECONOMY STANDARD

Model year	Miles per gallon
1978	10.7
1979	10.8
1980	11.1
1981	10.7
1982	10.6
1983	9.9
1984	10.0
1985	10.0

(3) Checker Motors Corporation.

AVERAGE FUEL ECONOMY STANDARD

Model year	Miles per gallon
1978	17.6
1979	16.5
1980	18.5
1981	18.3
1982	18.4
1983	19.2
1984	21.0
1985	22.0

(4) Aston Martin Lagonda, Inc.

AVERAGE FUEL ECONOMY STANDARD

Model year	Miles per gallon
1979	11.5
1980	12.1
1981	12.2
1982	12.2
1983	11.3
1984	11.3
1985	11.4

(5) Excalibur Automobile Corporation.

AVERAGE FUEL ECONOMY STANDARD

Model year	Miles per gallon
1978	11.5
1979	11.5
1980	16.2
1981	17.9
1982	17.9
1983	16.6
1984	16.6
1985	16.6

* * * * *

NHTSA has analyzed this proposal, and determined that neither Executive Order 12291 nor the Department of Transportation regulatory policies and procedures apply, because the proposal does not constitute a "rule", which term is defined as "an agency statement of general applicability and future effect". These exemptions are not generally applicable, but apply only to individual manufacturers. If those orders were applicable, the agency would have determined that these exemptions were neither major nor significant. The principal impacts of this proposal would be that the petitioning manufacturers would not be required to pay civil penalties, assuming they actually achieve their projected maximum feasible average fuel economy levels in each model year, and the purchasers of these automobiles would not have to bear the burden of the civil penalties in the form of higher prices for the automobiles. Additionally, since this proposal sets alternative standards at the levels determined to be the maximum feasible for each manufacturer, no fuel would be saved by setting higher standards. The impacts have been tentatively determined to be minimal for the public at large. Notwithstanding the inapplicability of the DOT policies and procedures, a preliminary regulatory evaluation regarding these impacts has been prepared and placed in the docket for this action. Copies of this evaluation may be obtained by writing the Docket Section or calling it at (202) 426–2768.

The agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act of 1969 and determined that this rule will not significantly affect the human environment. Regardless of the fuel economy of a vehicle, it must pass emissions standards which measure the amount of emissions per mile traveled. Thus, the quality of the air is not affected by these exemptions and alternative standards. Further, since these vehicles cannot obtain greater fuel economy than is proposed herein, granting these exemptions will not affect the amount of oil available.

Since the Regulatory Flexibility Act may apply to a notice exempting a manufacturer from a generally applicable standard, the agency certifies that each of the exemptions that would be granted by this notice would not have a significant economic impact on a substantial number of small entities. This proposal would not impose any additional burdens on any exempted manufacturer. While denial of any of the exemptions would subject the affected manufacturer to civil penalties for noncompliance with the generally applicable standards for cars, only a single small business would be affected. Small organizations and small governmental jurisdictions are believed not to be purchasers of these cars. In any event, since the prices of the automobiles of these manufacturers would not be increased by the adoption of this proposal, their purchasers would not be affected. Alternatively, denial of any petition request would result in civil penalties being imposed on the petitioner and in purchasers paying a higher price for the petitioner's automobiles. No regulatory impact analysis has been prepared.

Interested persons are invited to submit comments on this proposal. It is requested but not required that 10 copies be submitted. All comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commentor wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including the purportedly confidential information should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information had been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement showing that the information falls within 5 U.S.C. 552(b)(4), and that a disclosure of the information would result in significant competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter, or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation, must certify in writing that each item for which confidential treatment is requested is, in fact, confidential within the meaning of section 552(b)(4) and that diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination and copying in the docket at the above address both before and after that date. To the extent possible, comments filed after the comment closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the comment closing date and too late for consideration in this action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material in the docket as it becomes available after the comment closing date, and interested persons are advised to continue to check the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed, stamped postcard. When the comments are received, the docket supervisor will return the postcard by mail.

(Sec. 9, Pub. L. 89–670, 80 Stat. 981 (49 U.S.C. 1657); sec. 301, Pub. L. 94–163, 89 Stat. 901 (15 U.S.C. 2002); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 5, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–12974 Filed 5–12–82; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 47, No. 93
Thursday, May 13, 1982

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

COMMISSION ON CIVIL RIGHTS

Delaware Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Adivosry Committe to the Commission will convene at 4:00 p.m. and will end at 8:00 p.m. on June 11, 1982, at the Townsend Building, Capitol Square and Federal Street, in the Governor's Conference Room, Dover, Delaware, 19901. The purpose of this meeting will be to discuss the preparation of a public forum to be held to determine the effect of block grants proposals on migrant workers in Delaware.

Persons desiring additional information should contact the Chairperson, Louise T. Conner, 1214 Faun Road, Graylyn Crest, Wilmington, Delaware, 19803, (302) 738–8154 or the Mid-Atlantic Regional Office, 2120 L Street, NW., Suite 510, Washington, D.C. 20037, (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. May 7, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–12983 Filed 5–12–82; 8:45 am]

BILLING CODE 6335–01–M

District of Columbia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 4:00 p.m. and will end at 6:00 p.m. on June 24, 1982, at the Gelman Building, 2120 L Street, North West, in the Lower Level Conference Room, Washington, D.C. 20037. The purpose of this meeting will be to discuss project plans and a report of final follow-up activities on the police-community relations study.

Persons desiring additional information should contact the Chairperson, Walter E. Washington, 408 T Street, North West, Washington, D.C. 20001, (202) 659–3300 or the Mid-Atlantic Regional Office, 2120 L Street, North West, Suite 510, Washington, D.C. 20037, (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 7, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 12984 Filed 5–12–82; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Prestressed Concrete Steel Wire Strand From Brazil; Postponement of Countervailing Duty Preliminary Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of Countervailing Duty Preliminary Determination.

SUMMARY: The countervailing duty preliminary determination involving prestressed concrete steel wire strand ("PC strand") from Brazil is being postponed because we have determined the investigation to be extraordinary complicated. We intend to issue the countervailing duty preliminary determination not later than August 2, 1982.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230 (202) 377–1273.

SUPPLEMENTARY INFORMATION: On March 24, 1982, we announced our initiation of the countervailing duty investigation to determine whether producers, manufacturers, or exporters of PC strand from Brazil receive any benefits that are subsidies within the meaning of the countervailing duty law (47 F.R. 13396). The notice stated that we would issue a preliminary determination by May 28, 1982.

As detailed in the notice of initiation of the countervailing duty investigation, the petition alleges that the government of Brazil provides various programs which constitute subsidies to producers, manufacturers, or exporters of PC strand. The alleged subsidy practices are numerous and raise complex issues. Moreover, it is difficult to determine the extent of utilization of the programs by the manufacturers, producers, or exporters. We have determined that the government of Brazil and the other parties concerned are cooperating and that additional time is necessary to make the countervailing duty preliminary determination. For these reasons we determine that this case is extraordinary complicated in accordance with section 703(c)(1)(B) of the Tariff Act of 1930, as amended ("the Act"), and we intend to issue a countervailing duty preliminary determination not later than August 2, 1982.

This notice is published pursuant to section 703(c)(2) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 10, 1982.

[FR Doc. 82–13081 Filed 5–12–82; 8:45 am]

BILLING CODE 3510–25–M

Minority Business Development Agency

Financial Assistance Application—CFDA 11.800; San Francisco, Dallas, Atlanta

SUMMARY: The Minority Business Development Agency announces that it is soliciting applications for its Rural Assistance Program for the San Francisco, Dallas and Atlanta regions. The purpose of the program is to provide such management and technical services as financial management, accounting, management analysis, personnel, production and engineering controls to minority-owned businesses and individuals in rural areas not served by MBDA Business Development Centers. OMB Circular A–95 applies to this solicitation.

Three cooperative agreements not exceeding $200,000 each will be

awarded for twelve-month periods—one in each region.

Application kits may be requested as follows:

Awards for the *San Francisco* region will provide services in the rural areas of the state of *California*.

Minority Business Development Agency, Federal Building—Room 15043, 450 Golden Gate Avenue, San Francisco, California 94102, Attn: Mikel Cook (415) 556–6733

Awards for the *Dallas* region will provide service in the rural areas of *Louisiana, New Mexico, Texas* and *Arkansas*.

Minority Business Development Agency, 1100 Commerce Street—Room 7E23, Dallas, Texas 75242 Attn: Cathy Bowman (214) 767–8001

Awards for the Atlanta region will provide services in the rural areas of Alabama, Georgia, Mississippi, North Carolina and South Carolina.

Minority Business Development Agency, 1371 Peachtree Street, NE.—Suite 505, Atlanta, Georgia 30309, Attn: Carlton Eccles (404) 881–4091

The closing date for submission of ALL applications is May 21, 1982.

Dated: May 4, 1982.

Luis Encinias,

Acting Assistant Director for Enterprise Development.

[FR Doc. 82–13023 Filed 5–12–82; 8:45 am]

BILLING CODE 3510–2–M

Financial Assistance Application Announcement; Washington Region

AGENCY: Department of Commerce, Minority Business Development Agency.

ACTION: Cancellation.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is cancelling a Grant under the Washington Region's City Minority Business Program to assist minority businesses in the selected city for a 12 month period beginning August 1, 1982.

This grant was opened to all *incorporated cities* (i.e., city governments only) with populations of 100,000 or more and located in the Washington Region (Delaware, Maryland, Pennsylvania, Virginia, West Virgina and the District of Columbia).

Dated: May 6, 1982.

John F. Iglehart,

Acting Regional Director.

[FR Doc. 82–13024 Filed 5–12–82; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Issuance of Permit

March 10, 1982, Notice was published in the **Federal Register** (47 FR 10270) that an application had been filed with the National Marine Fisheries Service by the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, to take up to one hundred fifty (150) California sea lions (*Zalophus californianus*) and up to one hundred fifty (150) harbor seals (*Phoca vitulina*) for the purpose of scientific research.

Notice is hereby given that on May 7, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Scientific Research Permit to the Southwest Fisheries Center, subject to certain conditions set forth therein.

The Permit and related documents are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 7, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82–13083 Filed 15–12–82; 8:45 am]

BILLING CODE 3510–22–M

Modification of Permits

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Public Display Permit No. 2 issued to Sea Life Park, Makapuu Point, Waimanalo, Hawaii 96795 on February 8, 1974 (39 FR 7477), as modified on March 3, 1975 (40 FR 8846), December 31, 1975 (40 FR 60105), October 18, 1977 (42 FR 55631), December 2, 1977 (42 FR 61296) and November 15, 1979 (44 FR 65805); and Permit No. 197 issued on August 9, 1977 (42 FR 41466) as modified on October 18, 1977 (42 FR 55031), and November 15, 1979 (44 FR 65805) are further modified by extending the period of validity for the authorized takings until December 31, 1984.

These modifications become effective May 13, 1982. The Permits as modified and documentation pertaining to the modifications are avaialble for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 7, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals & Endangered Species, National Marine Fisheries Service.

[FR Doc. 82–13082 Filed 5–12–82; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Levels for Certain Cotton Apparel Products From India

May 7, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the consultation levels for cotton nightwear in Category 351 from 13,462 to 19,231 dozen and other apparel in Category 359, from 152,174 to 434,783 pounds, produced or manufactured in India and exported during the agreement year which began on January 1, 1982.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5926).)

SUMMARY: Pursuant to the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, the consultation levels established for cotton apparel products in Category 351 and 359 are being increased at the request of the Government of India to 19,231 dozen and 434,783 pounds, respectively, for the agreement year which began on January 1, 1982 and extends through December 31, 1982.

EFFECTIVE DATE: May 10, 1982.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and

Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the **Federal Register** (46 FR 61685) a letter dated December 15, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including Categories 351 and 359, produced or manufactured in India, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the letter published below, in accordance with the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month levels previously established for Category 351 and 359 to the designated amounts.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

May 7, 1982.

Committee for the Implemenation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 15, 1981 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in India.

Effective on May 10, 1982, paragraph 1 of the directive of December 15, 1981 is amended to increase the levels of restraint for cotton textile products in Categories 351 and 359 to the following:

Category	Amended 12-month level of restraint [1]
351	19,231 dozen.
359	434,783 pounds.

[1] The levels of restraint have not been adjusted to reflect any import after December 31, 1981.

The actions taken with respect to the Government of India and with respect to imports of cotton textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82–13085 Filed 5–12–82; 8:45 am]

BILLING CODE 3510–25–M

Changes to the Textile Category System

May 7, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Changes to the Textile Category System.

SUMMARY: The Correlation: Textile and Apparel Categories with the Tariff Schedules of the United States, Annotated provides for placement of Tariff Schedule of the United States, Annotated (T.S.U.S.A.) numbers in the Textile Category System. Amendments to Schedules 3 and 7 of the T.S.U.S.A. as a result of certain administrative changes require amendments to the Correlation. These changes are cited on the list which follows this notice.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Claire McDermott, International Trade Specialist, Office of Textile and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

April 1, 1982 Changes to the Correlation

Category and Type of Change

335 Change 383.3455 to 383.3448, 383.3450 and 383.3452

337 Change 383.5050 to 383.5047 and 383.5049

359 Add 383.0635

465 Change 360.4615 to 360.4215, 360.4625 to 360.4225

665 Change 360.4630 to 360.4330, 360.4635 to 360.4335

669 Change 706.2045 to 706.3400, 706.2700 to 706.3900, 706.2840 to 706.4140, and 706.2850 to 706.4150

[FR Doc. 82–13084 Filed 5–12–82; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DOD.

ACTION: Proposed notice for a system of records.

SUMMARY: This notice publishes a system notice for a Department of the Army proposed system of records identified as A0404.02DAJA, entitled: "Courts-Martial Files."

DATE: This system will be effective June 14, 1982.

ADDRESSES: Submit any written comments to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of the Adjutant General (DAAG–AMR–R), Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA 22331; telephone: 703/325–6163.

SUPPLEMENTARY INFORMATION: This system of records was not published in the **Federal Register** previously because the Department of the Army considered courts-martial files to be exempt from the Privacy Act by virtue of the definition of the term "agency" in 5 U.S.C. 552a(a)(1) which adopts the definition of 5 U.S.C. 551(1)(F). However, as a matter of policy and to preclude any misunderstanding, a system notice for this system of records is published at this time.

It is proposed to exempt portions of this system from certain provisions of the Privacy Act under the provisions of Title 5, U.S.C 552a(j)(2). A proposed exemption rule for the system will published in the **Federal Register.**

The Army's inventory of system notices for records subject to the Privacy Act of 1974, Title 5, U.S.C. 552a (Pub. L. 93–579; 44 Stat. 1896, et seq.) have appeared in the Federal Register at:

FR Doc. 79–37052 (44 FR 73729), December 17, 1979

FR Doc. 81–897 (46 FR 6460), January 21, 1981

FR Doc. 82–674 (47 FR 2544), January 18, 1982

FR Doc. 82–5277 (47 FR 8610), March 1, 1982

FR Doc. 82–11002 (47 FR 17324), April 22, 1982

A Report of a New System as required by 5 U.S.C. 552a(o) was submitted on 7 April 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 7, 1982.

A0404.02DAJA

SYSTEM NAME:

Courts-Martial Files

SYSTEM LOCATION:

U.S. Army Legal Services Agency, Falls Church, VA., 22041; Washington National Records Center, Suitland, MD., 20409; National Personnel Records Center, St. Louis, MO., 63132; and office of Staff Judge Advocates, Judge Advocates, and Legal Counsel of subordinate commands and installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals tried by courts-martial.

CATEGORIES OF RECORDS IN THE SYSTEM:

General and special (BCD) courts-martial records of trial include a verbatim transcript of the trial and all allied papers relating to the charged offenses and legal review of the case. Special (non-BCD) and summary court-martial records of trial include a summarized transcript of the trial and all allied papers relating to the charged offenses, but ordinarily do not include all records of review pursuant to Articles 69 and/or 73, Uniform Code of Military Justice (UCMJ). (See "Retention and disposal" below.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C. 801–940 (Uniform Code of Military Justice).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Courts-martial records are transcribed and used to provide an accurate account of the proceedings for legal review. As such records reflect criminal proceedings ordinarily open to the public, they are normally releasable to the public pursuant to the Freedom of Informaton Act. They are also used to formulate responses to inquiries from members of Congress, the White House Staff, the individual concerned, or other agencies or individuals interested in the case.

Courts-martial records may be transferred within the Department of Defense, to the Department of Justice, the Veterans Administration, and Federal, state, and local law enforcement agencies for determination of rights and entitlements of the individuals concerned or use in the enforcement of criminal or civil law. If a conviction results, portions of the record in every case are transmitted to Army personnel authorities for use in evaluating the individual's overall performance and for inclusion in his military personnel records. A record of a conviction may be introduced at a subsequent courts-martial involving the same individual, or in any other case in which it is relevant. Statistical data obtained from records of trial are used in determining jurisdictional and Army-wide trends of disciplinary infractions in the Armed Forces, and serve as a guide for officials responsible for making policy decisions regarding military justice activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Papers stored in file folders; index cards, computer diskpacks, and courts-martial coding sheets.

RETRIEVABILITY:

Records are retrieved by reference to the name and social security number of the individual and through the court-martial number assigned to the case.

SAFEGUARDS:

Those portions of the system maintained by the US Army Legal Services Agency and the National Personnel Records Center are contained in file cabinets and are safeguarded by systems of personnel screening and hand receipts. During non-duty hours, guards assure that the areas where records are located are accessible only to authorized personnel. Decentralized segments of the system are maintained in locked file cabinets and/or locked offices in buildings employing security guards and/or located on military installations with military police or contract guard patrols and protection.

RETENTION AND DISPOSAL:

With respect to each courts-martial, there is an orignial record and between one and four copies. One copy is given to the accused and the remaining copies are used in the review of the case for legal sufficiency. The original record is disposed of as follows: All records of trial by general courts-martial and those special courts-martial records in which a bad conduct discharge (BCD) was approved are retained in the Office of the Clerk of Court, US Army Judiciary, for 1–2 years after completion of appellate review. Thereafter, the records are forwarded to the Washington National Records Center, Suitland, MD., 20409 for permanent storage. Records of trial by special courts-martial (non-BCD) and summary courts-martial are retained in the staff judge advocate office of the general courts-martial authority for one year after completion of supervisory review and thereafter for two years in the records holding area or overseas records center. Records are then sent to the National Personnel Records Center (Military Records), 9700 Page Boulevard, St Louis, MO., 63132 where they are retained for seven years. Thereafter, the records are destroyed and the remaining evidence of conviction are the special (non-BCD) and summary courts-martial promulgating orders maintained in the individual's permanent records and any review(s) of the cases conducted pursuant to Article(s) 69 and/or 73, UCMJ. The original review of special (non-BCD) and summary courts-martial cases and a copy of all other reviews pursuant to Articles 69 or 73, UCMJ, are maintained for three years in the office of the Chief, Examination and New Trials, US Army Judiciary, Falls Church, VA., 22041. They are retained an additional seven years at the Washington National Records Center, Suitland, MD., 20409, and destroyed. Statistical data obtained from general and special (BCD) courts-martial records are maintained permanently on master index cards which serve as a means of listing records of trial sent to storage.

SYSTEM MANAGER(S) AND ADDRESS:

The Judge Advocate General, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Requests from individuals as to whether there are any general or special (BCD) courts-martial records in the system pertaining to them should be addressed to the Clerk of Court (JALS–CC), US Army Judiciary, Nassif Building, Falls Church, VA., 22041. Requests for information as to special (non-BCD) and summary courts-martial records should be addressed to the staff judge advocate of the command where the record was reviewed or, if no longer there, to the National Personnel Records Center (Military Records), 9700 Page Boulevard, St Louis, MO., 63132. Official mailing address of subordinate commands and installations is in the DOD Directory in the appendix to the Army's inventory of system notices.

Requests for information concerning reviews pursuant to Articles 69 or 73, UCMJ, should be addressed to the Chief,

Examination and New Trials, US Army Judiciary, Nassif Building, Falls Church, VA., 22041. Written requests for information should include the full name of the individual, social security number (SSN), the record file number if available, and any other personal information which would assist in locating the records.

Personal visits may be made to the office of the Clerk of Court or Chief, Examination and New Trials, during normal business hours. The individual should provide identification such as a valid driver's license, or verbal information sufficient to permit locating the record.

RECORD ACCESS PROCEDURES:

Requests for access should be submitted as specified under "Notification procedure" above. Requests should be directed to the Clerk of Court (JALS-CC), US Army Judiciary, Nassif Building, Falls Church, VA., 22041 if the type of courts-martial or reviewing command is unknown.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army regulation 340-21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Information from almost any source may be included in the record if it is relevant and material to courts-martial proceedings.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of 5 U.S.C. 552a: (d)(2), (d)(3), (d)(4), (e)(2), (e)(3), (e)(4)(H), and (g). The rules exempting this system are set forth in 32 CFR Part 505.

[FR Doc. 82-12993 File 5-12-82; 8:45 am]

BILLING CODE 3710-08-M

Military Traffic Management Command; Military Personal Property Claims Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Claims Symposium. This meeting will be held on June 10, 1982 at the Headquarters Military Traffic Management Command, 5611 Columbia Pike, Room 714, Falls Church, Virginia, and will convene at 0900 hours and adjourn at approximately 1500 hours.

Proposed Agenda: The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation (DOD 4500.34-R), and the handling of other matters of mutual interest relating to claims actions concerning the Department of Defense Personal Property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MT-PPM, at telephone number 756-1600, between 0800-1600 hours. Topics to be discussed should be received on or before May 24, 1982.

Dated: May 3, 1982.

Robert F. Waldman,

Deputy Director, Directorate of Personal Property.

[FR Doc. 82-13148 Filed 5-12-82; 8:45 am]

BILLING CODE 3710-08-M

Defense Nuclear Agency

The Scientific Advisory Group on Effects (SAGE); Meeting

Scientific Advisory Group on Effects (SAGE) will meet in closed session June 15 to June 18, 1982, at the HQ US Army Training & Doctrine Command, Ft. Monroe, Virginia.

Agenda: June 15 to 17 (0830-1700) and June 18, (0830-1200): Presentations, Discussions and Executive Sessions on Issues Related to the Integrated Battlefield.

The presentations and discussions in the above cited agenda will focus on current and planned RDT&E programs sponsored by the Defense Nuclear Agency (DNA). Executive sessions will be held for the primary purpose of advising the Director, DNA as to the adequacy of ongoing and planned programs. All planned presentations, discussions, and executive sessions will include classified defense information; therefore, under the provisions of Sections 552b(c)(1) and (3), Title 5, U.S.C., this meeting is closed to the public. Any additional information concerning the meeting may be obtained from: LTCOL Robert E. Case, USAF, Scientific Secretary, SAGE, Headquarters, Defense Nuclear Agency, ATTN: DDST, Washington, D.C. 20305.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 7, 1982.

[FR Doc. 12982 Filed 5-12-82; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session June 23, 1982, at the National Bureau of Standards, 325 Broadway, Boulder, CO 80303.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, section 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 10, 1982.

[FR Doc. 82-12981 Filed 5-12-82; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session June 24, 1982, at the NCR Corporation, 20001 Danfield Court, Ft. Collins, CO 80525.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This special device area

includes such programs as infrared and night sensors. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, section 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 10, 1982.

[FR Doc. 82-12980 Filed 5-12-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Impact Aid Payments Formula and Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of proposed impact aid payments formula and opportunities for public review and comment.

SUMMARY: The Pacific Northwest Electric Power Planning and Conservation Act (Regional Act) provides that BPA may establish a regionwide uniform formula for providing impact aid assistance to local governments, allowing payment of their actual cost of services provided on behalf of a BPA major transmission facility located within the government's boundaries. This proposed formula interprets the Regional Act provision (section 7(m) and prescribes procedures to be followed by local governments to apply for impact aid assistance.

DATES: BPA will receive public comment on the proposed formula in accordance with section 7(i) procedures of the Regional Act, which are described in the public review and comment portion of this Notice. BPA will hold hearings in five regional locations. Registration for the hearings will begin at 7 p.m. and the hearings will start at 7:30 p.m. Dates and locations are: May 24, Grizzly Den, Holiday Inn, Highway 10 West and East Mullan Road, Missoula, Montana; May 25, 4-H Building, West of Superior High School on 5th Street, Superior, Montana; May 26, Boulder Grade School Auditorium, 205 South Washington, Boulder, Montana; May 27, Community Center, Corner of Cottonwood and 5th Street, Deer Lodge, Montana; June 1, BPA Auditorium, 1002 NE. Holladay Street, Portland, Oregon. Written comments are also encouraged and will become part of the record. They must be received on or before July 12, 1982. In addition, BPA will endeavor to meet with interested persons who may have questions regarding the proposed formula. To request such a meeting, interested persons should contact the Area or District Manager in their locality or the office of the Public Involvement Coordinator.

ADDRESS: Written comments not submitted at the hearings should be submitted to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503-230-3478. Oregon callers may use the toll-free number 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800-547-6048.

Mr. George Gwinnutt, Area Manager, Suite 288, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-345-0311.

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406-755-6202.

Mr. Ronald K. Rodewald, District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Thomas M. Noguchi, Acting Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-422-4130.

Mr. Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION:

I. Public Review and Comment.
II. Summary of Impact Aid Formula.
III. Discussion of Significant Concepts in the Formula.

I. Public Review and Comment

The Regional Act allows BPA to develop a regionwide uniform formula for making annual impact aid payments to appropriate local governments in accordance with the procedures for public notification and hearings as described in section 7(i) of the Regional Act.

The hearings will be held by the Hearing Officer to develop a full and complete record and to receive public comment in the form of written and oral presentation of views, data, questions, and argument related to the proposed formula. At the hearings, any person will be provided an adequate opportunity to offer refutation or rebuttal of any material submitted by any other person or the BPA staff, and the Hearing Officer, in his/her discretion, will allow a reasonable opportunity for cross-examination, which, as determined by the Hearing Officer, is not dilatory, in order to develop information and material relevant to the proposed formula. The Hearing Officer may announce procedural rules necessary for the conduct of orderly an expeditious hearings, and may apply the Federal Rules of Evidence and the Federal Rules of Civil Procedure as deemed appropriate.

In addition to the opportunity to submit oral and written material at the hearings, any written views, data, question, and arguments submitted prior to or before the close of hearings will be made a part of the record.

After such a hearing, the Administrator may develop a revised proposal, publish such revised proposal in the **Federal Register**, and conduct additional hearings in accordance with the same procedures provided for the initial hearing; or, in the alternative, the Administrator shall make a final decision establishing a uniform regionwide formula. Such final proposed formula shall be based on the record which shall include the hearing transcript together with exhibits and such other materials and information as may have been submitted to, or developed by, the Administrator.

In consideration of public comments, the record, and other information developed by the Administrator, the final formula may differ from the proposed formula as set forth in this notice.

The formula will become effective upon approval by the Federal Energy Regulatory Commission, after it has considered the formula's effects on BPA rates that have been established.

II. Summary of Impact Aid Formula

The attached proposed formula represents BPA's desire to pay the full measure of impact aid to affected local governments, within the limitations contained in the congressional authorization. The proposed formula allows payment of a qualifying local government's actual cost of services

provided on behalf of a BPA major transmission facility located within the government's boundaries. That facility must have been completed, or a modification of it undertaken, subsequent to passage of the Regional Act, and it must result in a substantial impact on the local government. The latter threshold is met where the governing entity has spent more than $1,000 on services on behalf of the facility during the fiscal year for which impact aid is requested. If it has, then all otherwise qualified service costs will be paid. Service categories include fire protection, police protection, facility planning services, emergency services, and possibly others still to be identified. The services provided must be necessary and reasonable, and the costs must not be payable by other means. As stipulated in the Regional Act, the formula must be reviewed and approved by the Federal Energy Regulatory Commission (FERC), and does not become effective until the first full fiscal year after approval of a regional plan by the Pacific Northwest Electric Power and Conservation Planning Council (Regional Planning Council) (probably fiscal year 1984). At that time, a qualifying local government may request payment for services provided since December 5, 1980. Thereafter, payments would be requested on an annual basis.

III. Discussion of Significant Concepts in the Formula

A. Payment of Service Costs

It was determined that the "costs" which could be paid under impact aid could only be *service* costs, and not any other costs or reimbursement of lost taxes. In section 7(m)(2), it is stated:

> In developing such [impact aid] formula, the Administrator shall identify, and take into account, the local governmental services provided to the Administrator concerning such facilities and the associated costs to such governments as the result of such facilities.

There is some question whether the words "associated costs" refer to the "facilities" or to "services." If the former, then the costs would be any that the local government incurred on behalf of the facilities; it the latter, then the costs would be limited to those of services provided. Any uncertainty on this or the tax issue is put to rest by the legislative history. In 126 Cong. Rec. 10,685 (daily ed. Nov. 17, 1980), Representative Dingell, in his summary of the new section states:

> The intent is to make these payments reflect the *services provided* by the governments and not any taxes that may have been lost or estimated to have been lost by the communities. This is not a payment-in-lieu-of-taxes provision. (Emphasis added.)

Hence, only service costs are being compensated for under this formula.

B. Formula Based on Actual Costs

In developing this formula, BPA was guided by the requirements of subsection 7(m) of the Regional Act, particularly subsection 7(m)(2), which states:

> Payments made under this subsection for any fiscal year shall be determined by the Administrator pursuant to a regionwide, uniform formula to be established by rule in accordance with the procedures set forth in subsection (i) of this section.

A primary result of BPA deliberations was the proposal to pay actual costs of services incurred by the local governments. This result is considered within the definition of a "regionwide uniform formula," as required by subsection 7(m). Although not a mathematical formula, (as would be, for example, a payment of so many dollars per mile of line) it is still considered a general formula within conventional definitions. Lack of any historical data on service costs borne by local governments on BPA's behalf, and the resultant inability to relate any other formula to service costs, mandated this actual cost approach (i.e., where the actual costs are not known, it is not possible to develop a mathematical formula which will approximate them). However, it is possible that the data gathered under this method may allow the development of some simpler formula in the future, at which time it could be amended. Even if that does not become the case, the proposed formula is considered meritorious in that it makes each entity "whole" regarding service costs provided.

C. Major Transmission Facility

The Regional Act, section 7(m), states that major transmission facilities shall be as defined in section 3(c) of the Federal Columbia River Transmission System Act (FCRTSA). The definition in section 3(c) provides that:

> The term "major transmission facilities" means transmission facilities intended to be used to provide services not previously provided by the Bonneville Power Administration with its own facilities.

Through the annual budgetary process, BPA identifies those facilities which are determined to be major transmission facilities. Those which have been so identified, and will be completed after passage of the Regional Act are: WNP Nos. 3 and 5 Integrating Transmission; Western Montana Transmission; Southwest Oregon Service; Surprise Valley Area Service; and Boundary Integration and Colville Valley Support.

Additionally, BPA proposes to include facilities that were not identified under the FCRTSA definition, but were completed after the FCRSTSA's effective dae, and would have been identified as major had they been considered. This is because such facilities are considered to have been within the contemplation of Congress as "major facilities" at the time of the FCRTSA's passage. The facilities covered are: the Ashe-Willamette Valley service; the Bell-Hot Springs service; the Grand Coulee-Hanford service; the Trojan-Allston service; and the WNP No. 2 Integrating Transmission service. The Salmon River-Lost River service is not included because it was completed prior to passage of the Regional Act. However, it may qualify under the modification section, if work is performed on it at a later date. It should also be noted that some "modifications" to older lines may be so substantial that they would be identified as new "major transmission facilities;" and would therefore qualify for impact aid.

D. Substantial Impact Requirement

The Administrator is not authorized to provide impact aid assistance under section 7(m) unless he finds that the local government is substantially impacted, as distinguished from being merely impacted, as a result of the qualifying facility. As set forth in the formula, it is possible for a local government to show it has been substantially impacted where the local government can show an annual expenditure of at least $1,000 in services on behalf of the transmission facility. If the test is met, all directly related and otherwise qualified service costs will be paid. Any proposed test would necessarily be a somewhat arbitrary one, as "substantial" is not a defined or specific term in section 7(m); however, the proposed test is recommended based on its reasonableness and ease of application. It avoids the administrative burdens of minimal claims, while allowing almost all local governments an opportunity to qualify.

Proposed Formula

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(Authority: Sec. 7(m), Pub. L. 96-501, and 5 U.S.C. 553)

Section 1 *Purpose.* The purpose of the proposed formula is to set forth a recommended procedure for the orderly and timely processing of applications for annual impact aid assistance from qualifying local governments as allowed by section 7(m) of the Regional Act. The formula proposed sets forth procedures for notice, submission, review, and payment to qualifying local governments for actual cost of services provided to BPA related to major transmission facilities located within the jurisdictional boundaries of such governments. The Administrator proposes to provide impact aid assistance that pays local governments for cost of services provided to BPA in its capacity as a legal entity entitled to receive local government services, but yet, as a tax-exempt Federal entity, one not generally authorized to pay for these services. The essential purpose is to make qualifying local governments "whole" respecting the cost of services they provide, to provide impact aid on a uniform regionwide basis, and, to the extent practical, to provide as equitable and as simple a means possible for providing impact aid while giving proper regard to considerations of financial integrity, viability, and administrative costs and burdens in the implementation of section 7(m) of the Regional Act.

Section 2 *Formula.* Impact aid assistance may be provided on an annual basis to qualifying local governments which have been substantially impacted by the presence of major transmission facilities within their jurisdictions for the total and actual costs of local governmental services provided to the Administrator as the result of such facilities. The local government will be notified of a qualifying facility located or to be located within its boundaries, and upon applying for and supplying supporting documentation regarding qualification and services provided to the facility during the cost-of-service period, BPA will reimburse the entity's appropriate service costs. Details on application of the formula are set forth in the sections which follow.

Section 3 *Definitions.* As used in subsection 7(m) of the Regional Act, and in applying this formula, the term:

(a) "Completed facility" means one that is permanently completed in accordance with final design standards to provide the intended transmission service.

(b) "Cost-of-service period" means the period immediately preceding the fiscal year in which the local government can apply for and receive payments under this formula. The first cost-of-service period will be from December 5, 1980, through September 30, 1984 (assuming the Regional Planning Council's regional plan is adopted prior to September 30, 1983). Thereafter, the cost-of-service period will be the BPA fiscal year immediately preceding the fiscal years during which local governments can receive impact aid payments under this formula.

(c) "Facility planning services" means services rendered by a local government to assist BPA in meeting its responsibilities to coordinate its activities respecting a qualifying facility with local government's plans to the extent feasible. These services are provided in reviewing BPA's plans and in consulting with BPA.

(d) "Facility to be located" means a major transmission facility for which BPA has filed a notice of Record of Decision in the **Federal Register**, but for which construction has not yet been initiated.

(e) "Initiation of construction" means when physical construction activity first begins within the jurisdiction of the local government which activity is directly related to the clearing for and the construction of the facilities. Illustration: Survey work, appraisal, or negotiations do not constitute construction activities nor does mere storage or materials and supplies within the jurisdiction constitute the initiation of construction.

(f) "Local governments" means, exclusively: (1) Counties; (2) cities; (3) towns; (4) local service districts; and (5) Indian tribes, to the extent they provide services in their capacity as recognized local governments within Indian reservations.

(g) "Located" means the initiaiton of construction of a qualifying facility within the boundaries of a local government.

(h) "Major transmission facility" (as defined in section 3(c) of the FCRTSA) means a transmission facility completed after the effective date of the FCRTSA that has been or would have been identified for inclusion in BPA's budget as a major transmission facility requiring specific congressional approval.

(i) "Major transmission facilities having a substantial impact on local governments" means a qualifying facility within a local jurisdiction where the local government's annual cost of services provided to BPA directly related to such qualifying facilities is at least $1,000 during the cost-of-service period immediately preceding the fiscal year for which impact aid may be received under this formula.

(j) "Qualifying facility" means a major transmission facility completed or modified after the effective date of the Regional Act.

(k) "Qualifying local government" means a local government within which is located a major transmission facility having substantial impact.

(l) "Record of Decision" means the formal decision of BPA filed pursuant to the regulations of the Council on Environmental Quality (CEQ) with the Environmental Protection Agency (EPA) that incorporates BPA's final route selection for a "qualifying facility." The official date of the entry of the Record of Decision will be the date that the notice of filing with EPA is filed in the **Federal Register**.

(m) "Regional plan" means the Regional Electric Power and Conservation plan developed by the Regional Planning Council and adopted pursuant to the Regional Act. The regional plan must be adopted by April 1983, and will establish a general scheme for implementing conservation measures and developing resources to reduce or dimish the Administrator's obligations.

(n) "Services" means reasonable and necessary expenditures incurred by a qualifying local government that the Administrator determines are of a direct benefit to BPA. Services include those provided even prior to the location of the facilities within the boundaries of the local government provided, however, these services will not quality for impact aid if, as a result of a change in the proposal, the facilities are not located within the boundaries of the jurisdiction of a local government. Examples of the type of services covered include, but are not limited to, police protection, fire protection, emergency services, and facility planning services.

(o) "Substantial modification of an existing facility" means a 100-percent increase in the power-carrying capacity of an existing transmission facility that BPA had previously determined to include, or now determines would have been included in BPA's budget as a major transmission facility under the definition stated in the FCRTSA.

Section 4 *Notice and Submittal.*

(a) Within 90 days aftet the effective date of this formula (this formula is not effective until approved by FERC, see section 7(m)(2) of the Regional Act), notices will be issued identifying the location of qualifying facilities. Thereafter, within 90 days after the notice of a Record of Decision on a

major transmission facility has been filed in the **Federal Register**, notices will be issued identifying the facility.

(b) Notice shall consist of **Federal Register** notices, letters to known affected local governments, and news releases and legal notices in local newspapers of general circulation within the territory within which the qualifying facilities are to be located. The notice shall state that a major transmission facility has been or is to be located within the boundaries of the jurisdiction. When applicable, a statement of the current status of, or proposed start of, construction shall be provided. The letter notice shall also contain a copy of section 7(m) of the Regional Act, excerpts of statutory sections referred to in section 7(m), and a copy of this formula; these items will be incorporated by reference in the **Federal Register** and newspaper notices.

Section 5 *Application for Payment—Annual Payment Requirement.* (a) Impact aid based on payment for cost of services will not be made until the BPA fiscal year (fiscal year as now established is October 1 though September 30) beginning after facilities have been located within the boundaries of a qualifying local government. During BPA's first fiscal year for which impact aid can be provided (first fiscal year after adoption of the regional plan) qualifying local governments will be eligible for payment for cost of services incurred anytime between December 5, 1980, and the beginning date of the first fiscal year. Thereafter, impact aid can be provided to qualifying local governments for the cost of services incurred during the period of October 1 through September 30 preceding the BPA fiscal year for which application for payment is made. Illustrations: Assuming the regional plan by Regional Planning Council is adopted in May 1983 (current estimated date), then:

(1) First fiscal year payment can be provided = FY 1984, October 1, 1983, through September 30, 1984.

(2) Expenses paid for by BPA during FY 1984 = those incurred from December 5, 1980, through September 30, 1983. Application for payment to be made by January 1, 1984.

(3) Expenses paid for by BPA during FY 1985, October 1, 1984, through September 30, 1985 = those incurred from October 1, 1983, through September 30, 1984. Application for payment to be made by January 1, 1985.

(b) Application for annual impact aid assistance by local governments shall be made by January 1st of the fiscal year for which the local government qualifies to receive impact aid payments.

(c) Applications for payment will be sent to BPA, through the appropriate area offices as designated in the notices to be submitted. The application for payment shall identify each service, detailing the costs incurred and how they were derived. The application will also indicate other compensation available or received. (See sections 7(c) and 7(d) of this formula.) Illustration: In the case of police protection, for example, the local jurisdiction is to keep records of the actual time devoted to patrol, protection of the qualifying facility, investigations relating to protecting the facilities and to the apprehension of those that have jeopardized or threaten to jeopardize the qualifying facility. Administrative overhead costs can also be charged for each unit of time used in directly providing police protection as a result of the qualifying facility. This figure would be based on the established percentage of fixed overhead costs to direct costs as used in the local jurisdiction's accounting procedures. BPA shall review the overhead percentage used and will pay on the basis of the figure submitted if it is found to fairly reflect overhead costs for each unit of direct service. Capital expenditures may not be charged.

(d) To the extent practical, the type and level of service will be determind before the actual service is provided, with the local government giving notice and receiving BPA assent thereto. The provisions is section 7 of this formula will still be applicable. The lack of an agreement will not exclude the local government from receiving impact aid payments.

Section 6 *BPA Review.* BPA, or its designee, may conduct such audits, examinations, or inspections of the local government's records and procedures, as BPA deems appropriate. Any audit will be performed in accordance with audit standards established by the Comptroller General of the United States. The number, timing, and extent of such audits will be at the discretion of BPA or its designee. BPA will make all reasonable efforts to schedule payment or indicate disagreement within 90 days of receipt of the submittal. Payment schedules may be quarterly or annually for annual impact aid payments, as BPA determines to be fiscally appropriate. The impact aid payments will be subject to audit for a 3-year period subsequent to the date of payment.

Section 7 *Limitations.* (a) Impact aid payments are subject to the availability of funds from revenues.

(b) Impact aid payments cover only those expenditures directly, reasonably, and necessarily incurred for the benefit of BPA as a result of the qualifying facilities.

(c) To the extent service costs have been compensated or agreement has been made for compensation by BPA under some authorization other than section 7(m) of the Regional Act or to the extent that the service cost is or can be compensated for by some other Federal source (e.g., firefighting costs under Pub. L. 93–498, implemented in 44 CFR Part 151), that cost will not qualify for impact aid under this rule.

(d) Service costs will not be paid to the exent that the local government is otherwise directly compensated for its additional costs by increased taxes or revenues resulting directly from activities of BPA's employees or contractors in respect to the qualifying facilities.

(e) There will be no payment of interest under this impact aid formula.

Secion 8 *Penalties.* Officials or others who provide information or documentation under this formula are subject to, among other laws, the criminal penalties of Title 18 of the United States Code. Sections 287 and 1001, which punish the submission of false, fictitious, or fraudulent claims and the making of false, fictitious, or fraudulent statements and which provide for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both. For such a violation, the person is likewise subject to the civil penalties of 31 U.S.C. 231. Section 231 provides that the person liable "shall forfeit and pay to the United States the sum of $2,000, and, in addition, double the amount of damages which the United States may have sustained by reason of doing or committing such act, together with the costs of suit; and such forfeiture and damages shall be sued for in the same suit."

Section 9 *Modification of Formula.* This formula is subject to modifications where determined necessary by the BPA Administrator. The formula shall not be modified more often than once a year, and any modification will be subject to the procedural requirements of section 7(i) of the Regional Act, including approval by FERC.

Issued in Portland, Oregon, May 5, 1982.

Peter T. Johnson,

Administrator.

[FR Doc. 82-13063 Filed 5-12-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 82-CERT-008]

Public Service Electric and Gas Co; Application for Certification of Use of Natural Gas To Displace Fuel Oil

Public Service Electric and Gas Company (Public Service), 80 Park Plaza, T5E, Newark, New Jersey 07101, filed an application on April 22, 1982, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at eight of its electric generating stations located in New Jersey: Bergen in Ridgefield; Essex in Newark; Hudson in Jersey City; Kearny in Kearny; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, RG-631, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Public Service states that the volume of natural gas for which it requests certification is approximately three billion cubic feet. This volume is estimated to displace the use of approximately 438,000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 12,000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year.

The quantities at each location are subject to considerable variation with changes in demand and availability of the various generating units, but estimated gas usage and resulting oil displacement volumes are listed below:

Location	Estimated volume (MMCF)[1]	Estimated oil displacement (1,000 barrels)	
		0.3 pct sulfur No. 6 oil	0.2 pct sulfur No. 2 oil or 0.1 pct sulfur kerosene
1. Bergen Generating Station, Ridgefield, NJ	1,332	202	
2. Essex Generating Station, Newark, NJ	38		6
3. Hudson Generating Station, Jersey City, NJ	1,158	172	
4. Kearny Generating Station, Kearny, NJ			
5. Linden Generating Station, Linden, NJ			
6. Sewaren Generating Station, Sewaren, NJ	434	64	
7. Edison Generating Station, Edison, NJ	38		6
8. Mercer Generating Station, Trenton, NJ			
Total	3,000	438	12

[1] MMCF is million cubic feet.

The eligible seller is the Alabama-Tennessee Natural Gas Company, P.O. Box 918, Florence, Alabama 35637. The gas will be transported by the Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001; and the North Alabama Gas District, 1100 Woodward Avenue, Muscle Shoals, Alabama 35660.

Public Service has in effect certifications by the ERA which authorize purchases of natural gas from various eligible sellers for use at the electric generating stations named in this certification as follows:

ERA docket No.	Amount (billion cubic feet per year)	Remarks
81-CERT-008	7.3	Effective June 24, 1981.
81-CERT-009	10.7	Do.
81-CERT-013	5.0	Effective July 21, 1981.
81-CERT-015	7.0	Effective July 25, 1981.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6144, RG-631, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposal oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Public Service and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on May 5, 1982.

F. Scott Bush,

Director, Oil and Gas Imports Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-12976 Filed 5-12-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of March 26 Through April 2, 1982

During the week of March 26 through April 2, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 5, 1982.

SUBMISSION OF CASES RECEIVED BY THE OFFICE OF THE HEARINGS AND APPEALS, WEEK OF MARCH 26 THROUGH APRIL 2, 1982

Date	Name and location of applicant	Case No.	Type of submission
Mar. 26, 1982	Marathon Oil Company/Growmark, Inc., Findlay, Ohio	HRJ-0017	Motion for Protective Order If granted: Marathon Oil Company would enter into Protection Order with Growmark, Inc. regarding the release of proprietary information to Marathon Oil Company in connection with Proposed Remedial Orders issued to Marathon Oil Company (Case Nos. HRO-0024, HRO-0025, HRO-0026).
Mar. 29, 1982	A. Johnson & Company, Inc., New York, New York	HEE-0020	Exception to the Reporting Requirements. If granted: A. Johnson & Company, Inc. would not be required to file forms EIA-14, EIA-87, EIA-90 and EIA-177.
Mar. 29, 1982	Leonard E. Belcher, Inc., Washington, D.C.	HEG-0013	Petition for Special Redress. If granted: The Office of Hearings and Appeals would rescind the requirement that Leonard E. Belcher, Inc. maintain a letter of credit.
Mar. 29, 1982	Pacific Northwest Resources Center, Eugene, Oregon	HFA-0049	Appeal of an Information Request Denial. If granted: The Information Request Denial issued by the Bonneville Power Administration would be rescinded, and Pacific Northwest Resources, Inc. would receive access to certain DOE information.
Mar. 30, 1982	Thriftyway Company, Washington, D.C.	HYX-0019	Supplemental Order. If granted: The DOE would review the entitlement exception relief granted to Thriftway Company during the period January 1, 1981 to January 27, 1981 to determine whether the level of relief accorded the firm was appropriate.
Mar. 31, 1982	Office of Special Counsel/Atlantic Richfield Company, Washington, D.C.	HRJ-0012	Motion for Protective Order. If granted: Atlantic Richfield Company (ARCO) would enter into a Protective Order with the Office of Special Counsel (OSC) limiting the dissemination and use of certain documents provided to ARCO by OSC.
Mar. 31, 1982	Office of Special Counsel/Gulf Oil Corporation, Washington, D.C.	HRJ-0013	Motion for Protection Order. If granted: Gulf Oil Corporation would enter into a Protective Order with the Office of Special Counsel (OSC) limiting the dissemination and use of certain documents provided to Gulf by OSC.
Mar. 31, 1982	Office of Special Counsel/Marathon Oil Company, Washington, D.C.	HRJ-0014	Motion for Protective Order. If granted: Marathon Oil Company would enter into a Protective Order with the Office of Special Counsel (OSC) limiting the dissemination and use of certain documents provided to Marathon by OSC.
Mar. 31, 1982	AOffice of Special Counsel/Standard Oil Company of Ohio, Washington, D.C.	HRJ-0015	Motion for Protective Order. If granted: Standard Oil Company of Ohio (SOHIO) would enter into a Protective Order with the Office of Special Counsel (OSC) limiting the dissemination and use of certain documents provided to Sohio by OSC.
Mar. 31, 1982	Offide of Special Counsel/Texaco, Inc., Washington, D.C.	HRJ-0016	Motion of Protective Order. If granted: Texaco, Inc. would enter into a Protective Order with the Office of Special Counsel (OSC) limiting the dissemination and use of certain documents provided to Texaco by OSC.
Apr. 1, 1982	Barbaria Shell Service, San Francisco, California	HRX-0018	Supplemental Order. If granted: The Office of Hearings and Appeals' March 29, 1982, Remedial Order issued to Barbaria Shell Service would be rescinded.
Apr. 1, 1982	Camden Fuel Oil Company, Kingsland, Georgia	HEE-0021	Exception to the Reporting Requirements. If granted: Camden Fuel Oil Company would not be required to file Form EIA-9A.
Apr. 1, 1982	Charles Gorsey, Reston, Virginia	HFA-0050	Appeal of an Information Request Denial. If granted: The April 1, 1982, Information Request Denial issued by the Office of FOIA and Privacy Act Activities would be rescinded, and Charles Dorsey would receive access to a copy of a memorandum from the Executive Service Board.
Apr. 1, 1982	Vickers Petroleum Company/K-G Oil Corporation et al., Hampton, Iowa.	HFX-0017	Supplemental Order. If granted: The Office of Hearings and Appeals would issue a Decision and Order directing disbursement of refunds to applicants regarding Vickers Petroleum Company's Consent Order.

[FR Doc. 82-13069 Filed 5-12-82; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of March 29, Through April 2, 1982

During the week of March 29 through April 2, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before June 2, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 7, 1982.

Anchor Distributors Inc., Miami, Florida, HRO-0036

On March 31, 1982, Anchor Distributors, Inc., 7950 Northwest 58th St., Miami Florida 33166 filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on February 24, 1982. In the PRO the Southeast District found that during the period January 1, 1980 to March 31, 1980, Anchor Distributors, a reseller-retailer, sold motor gasoline at prices in excess of those permitted under 10 CFR 212.93.

According to the PRO, the Anchor Distributors violation resulted in $164,845.01 of overcharges.

Appalachian Flying Service, Blountville, Tennessee, HRO-0038

On April 2, 1982, Appalachian Flying Service, P.O. Box 1077, Tri-City Airport Station, Blountville, Tennessee 37617, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on March 1, 1982. In the PRO, the Southeast District found that during the period November 1, 1973 to April 30, 1977, Appalachian Flying Service sold aviation gasoline and aviation jet fuel at prices in excess of the maximum lawful selling prices permitted under 10 CFR 212.93. According to the PRO, the Appalachian Flying Service violation resulted in $153,569.79 of overcharges.

Metropolitan Petroleum Co., Miami, Florida, HRO-0037, Motor Gasoline

On March 31, 1982, Metropolitan Petroleum Company, 3675 N.W. 58th Street, Miami, Florida 33142, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on February 24, 1982. In the PRO the Southeast District found that during the period March 1, 1979 through July 31, 1979, Metropolitan sold motor gasoline at prices in excess of the maximum lawful selling prices permitted by the DOE Mandatory Petroleum Price Regulations. According to the PRO, the Metropolitan violation resulted in $173,259.09 of overcharges.

Whitaker Oil Company, Atlanta, Georgia, HRO-0035

On March 30, 1982, Whitaker Oil Company, 1557 Marietta Road, N.W., Atlanta, Georgia 30318, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on February 24, 1982. In the PRO, the Southeast District found that during the period from November 1, 1973 to March 31, 1974, Whitaker, a reseller-retailer, sold petroleum products at prices in excess of maximum lawful selling prices permitted under 6 CFR 150.359 and 10 CFR Part 212, Subpart F of the Mandatory Petroleum Price Regulations.

According to the PRO, the Whitaker Oil Co. violation resulted in $1,012,138.60 of overcharges.

[FR Doc. 82-13070 Filed 5-12-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 81007; TSH-FRL-2123-3]

TSCA Chemical Substances Inventory; Intent To Remove Certain Incorrectly Reported Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA, in reviewing the chemical substances included on the Toxic Substances Control Act Chemical Substances Inventory, has concluded that certain chemical substances were incorrectly reported and listed. The Agency intends to remove twenty-seven incorrectly listed substances from the Inventory, and solicits public comments on the appropriateness of that removal.

DATE: Comments must be received by EPA on or before July 12, 1982.

ADDRESSES: Three copies of the written comments should be addressed to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. 401, 401 M St., SW., Washington, D.C., 20460.

Comments should bear the identifying notation OPTS 81007. The administrative record supporting this action is available for public inspection in the OPTS Reading Room, E-107, at the above address, from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), in Washington, D.C.: (554-1404), outside the U.S.A. (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Section 8(b) of the Toxic Substances Control Act (TSCA), Pub. L. 94-469, requires the Administrator of the EPA to identify, compile and keep current a list of chemical substances which are manufactured, imported, or processed for commercial purposes in the United States. To meet this requirement, EPA promulgated the Inventory Reporting Regulations (40 CFR Part 710) which appeared in the **Federal Register** of December 23, 1977 (42 FR 64572). These Regulations provided the basis for the initial compilation of the TSCA Chemical Substances Inventory which identifies the chemical substances in U.S. commerce.

The Inventory informs the public which chemical substances are being manufactured, imported, or processed in the United States for commercial purposes. The Inventory also has a regulatory purpose. It defines what is a "new" chemical substance for purposes of section 5(a)(1)(A) of TSCA. If a chemical substance is not included on the Inventory, it is considered a "new" substance and a premanufacture notification (PMN) is required at least 90 days before the manufacture or import of such a substance can begin.

For the Inventory to perform its functions, it must be continuously and accurately updated as new information becomes available. Updated information includes identities of new chemical substances which are being introduced into U.S. commerce and corrections for previously reported information. Recognizing industry's need for making corrections to incorrectly submitted Inventory reports, EPA announced, in the **Federal Register** of July 29, 1980 (45 FR 50544), that it would continue to accept certain types of corrections related to substances previously reported for the Inventory. The types of corrections specified in the July 29 **Federal Register** notice relate primarily to chemical identity.

Since the publication of the Initial Inventory in June 1979 and the Revised Inventory in July 1980, the Agency has received numerous requests from companies to correct certain previously submitted Inventory reports. In reviewing these correction requests and the corresponding reports originally submitted for the Inventory, EPA has concluded that a number of the chemical substances currently listed on the Inventory were erroneously reported. Furthermore, in reviewing the total body of Inventory submissions, it was discovered that most of the incorrectly listed substances were reported by only one submitter, i.e., the person who subsequently requested that EPA correct the chemical identity.

There are obviously different reasons why a chemical substance was incorrectly reported for the Inventory. First, the mistake could have been typographical or transcriptional and was not known to the submitter at the time when the original report was submitted. Secondly, improved analytical equipment and methods may allow for a more accurate description of a previously reported substance. Thirdly, EPA may identify reporting errors and request corrections. Regardless of the source of error, the end result is the same: A chemical substance not eligible for inclusion on the Inventory was reported and included on the Inventory. If these mistakes are not corrected, the integrity of the Inventory will suffer and its reliability as an accurate compilation of commercial substances for TSCA purposes will diminish.

The Inventory Reporting Regulations specify that any substance reported for the Inventory must have been manufactured, imported, or processed for commercial purposes in the United States since January 1, 1975. A chemical substance incorrectly reported for the Inventory might not have satisfied this requirement.

To date, EPA has officially removed from the TSCA Inventory only the chemical substance known as 2-naphthalenamine, Chemical Abstracts Service Registry Number 91-59-8. (46 FR 11356 and 46 FR 30563.) In this notice, the Agency proposes to remove twenty-seven additional chemical substances from the TSCA Inventory. Based on EPA's review of these substances and the body of Inventory submissions, these substances were found to be incorrectly reported and listed. The substances proposed for removal from the TSCA Inventory are listed below in ascending Chemical Abstracts Service (CAS) Registry Number sequence. Each of the twenty-seven substances is

further identified by its corresponding CA Index Name.

Each of the twenty-seven substances proposed for removal was reported for the Inventory. Subsequently, the person who reported the substance informed EPA that the chemical identity originally reported to EPA and included on the Inventory was incorrect. The corrected identity for each of the twenty-seven substances has been added to the Agency's Master Inventory File. EPA checked each of the twenty-seven substances in question, as originally reported, to determine whether any other person had also reported the same substance for the Inventory. If someone else had correctly reported the substance, it would have been retained for the Inventory. As to the twenty-seven substances, however, no other person had reported them. Accordingly, they do not appear to be eligible for continued inclusion on the Inventory.

Publication of this notice does not mean that EPA will actually and automatically delete from the TSCA Inventory any of the twenty-seven chemical substances listed below. Rather, the Agency solicits public comments on its intent to remove from the TSCA Inventory the listed chemical substances. EPA is specifically interested in knowing whether any of the chemical substances listed below have been manufactured, imported or processed for commercial purposes by anyone during the period January 1, 1975 through the publication date of this notice. The Agency is also interested to know whether any person can show that any of the chemical substances listed below could have been properly reported for either the Initial or the Revised Inventory. EPA also solicits comments from anyone who believes that any of the chemical substances listed below should not be removed from the TSCA Inventory for any reason. All such comments must be submitted to EPA within the 60-day comment period.

EPA will review all comments received and will make a determination regarding the eventual status of each of the chemical substances listed below. The Agency will announce its decision in a final notice of disposition in the **Federal Register**. If the Agency determines that any of the chemical substances listed should not be removed from the Inventory, an eligible manufacturer, importer, or processor of that substance would then be invited to submit an Inventory report to EPA to replace the one that was incorrectly submitted. The substance could then remain on the Inventory. On the other hand, if the Agency concludes that a substance is not eligible for inclusion on the Inventory, effective with the publication of the final notice of disposition, the substance will be considered removed from the Inventory—the presence of its name in any previously published version of the Inventory notwithstanding. In that event, the premanufacture notification requirements of section 5(a) of TSCA would apply to any manufacture or importation of the substance from the date of removal on.

With the publication of this notice, any on-going manufacture, importation, or processing of any of the twenty-seven chemical substances listed below begun prior to the publication date of this notice may continue until publication of the final notice of disposition. EPA will not, however, consider any request to retain any of the listed substances on the Inventory based solely on manufacture, importation or processing of that substance which begins after the first publication date of this notice.

65086–37–5 Nonanoic acid, 2,2-dimethyl-, oxiranylmethyl ester, polymer with ethenylbenzene, 2-hydroxyethyl 2-propenoate, 1,3-isobenzofurandione and methyl 2-methyl-2-propenoate.

65121–76–8 Phenol, 2-methyl-4,6-dinitro-, lead (2+) salt.

65122–05–6 Diazene, [(1,3-dihydro-1,1,3-trimethyl-2H-iden-2-ylidene)methyl] (2-methoxyphenyl)-.

65151–55–5 Docosanoic acid, 1,3,5,-triazine-2,4,6-triyltris[(methoxymethyl)imino]methylene ester.

65530–81–6 Poly(difluoromethylene), α-(2,2-dichloro-1,1,2-trifluoroethyl)-W-hydro-.

65717–13–7 4-Primidinecarboxylic acid, 1,2,3,6-tetrahydro-5-nitro-2,6-dioxo-, monopotassium salt.

67892–76–6 Nonanoic acid, 2,2,-dimethyl-, oxiranylmethyl ester, polymer with butyl 2-propenoate, methyl 2-methyl-2-propenoate and 2-propenoic acid.

67892–78–8 Nonanoic acid, 2,2-dimethyl-, oxiranylmethyl ester, polymer with butyl 2-propenoate, ethenylbenzene, 2-hydroxyethyl 2-propenoate and 2-propenoic acid.

68110–21–4 Zincate(1-), trichloro-, hydrogen, compd. with N,N-diethyl-4-[(1-methyl-1H-1,2,4-triazol-5-yl)azo] benzenamine. (1:1)

68213–43–4 Fatty acids, tall-oil, polymers with bisphenol A, bisphenol A diglycidyl ether, Bu acrylate, 2-(dimethyl)amino)ethyl methacrylate, 2-[(1,1-dimethyl) amino]ethyl melhacrylate, glycidyl 2,2-dimethylnonanoate, hydroxyethyl methacrylate and Me methacrylate.

71002–23–8 1,1'-Bi-1*H*-imidazole, 2,2',5,5'-tetrakis(2-chlorophenyl)-4,4'-bis(3,4-dimethoxyphenyl)-.

71735–70–1 B-Alanine, N-[3-(nonyloxy)propyl]-.

71799–76–3 9,11-Octadecadienoic acid, (*Z,Z*)-, polymer with 2-hydroxyethyl 2-methyl-2-propenoate, methyl 2-methyl-2-propenoate, (*Z,Z*)-9,12-octadecadienoic acid and oxiranylmethyl 2,2-dimethylnononoate.

74398–77–9 Benzenediazonium, 2-methoxy-5-methyl-4-[(3-sulfophenyl)azo]-, chloride.

74642–98–1 Cuprate(2-), [bis(aminosulfonyl)-29H,31H-phthalocyaninedisulfonato(4-)-N^{29},N^{30},N^{31},N^{32}]-, lithium sodium.

Dated: April 27, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82–13006 Filed 5–12–82; 8:45 am]

BILLING CODE 6560–50–M

[OLCE–FRL–2117–2]

Guidelines for Using the Imminent Hazard, Enforcement and Emergency Response Authorities of Superfund and Other Statutes

AGENCY: Environmental Protection Agency.

ACTION: Policy statement.

SUMMARY: These guidelines are published pursuant to Section 106(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96–510 (CERCLA or Superfund). They are intended to provide Federal, State, local and private parties with a general description of how response actions undertaken pursuant to Section 104 of CERCLA will be coordinated with the use of enforcement authorities available to the Environmental Protection Agency (EPA or the Agency) and the Department of Justice (DOJ).

Applicability of Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation or rule is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. The Agency has determined that these guidelines do not constitute a major rule or regulation because they are designed simply to describe how authority under CERCLA is to be coordinated with other existing statutory and regulatory authority and are not a significant change in the

Agency's approach to implementing that authority.

These guidelines were submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB and any response from EPA to those comments are available for public inspection in the Office of Enforcement Counsel, (WH-527-F), Fairchild Building, 499 South Capitol Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard A. Smith, Office of Enforcement Counsel (WH-527-F), Environmental Protection Agency, Fairchild Building, 499 South Capitol Street, S.W., Washington, D.C. 20460, phone (202) 382-2550.

SUPPLEMENTARY INFORMATION:

Introduction

These guidelines are published pursuant to Section 106(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510 (CERCLA). They are intended to provide Federal, State, local and private parties with a general description of how response actions undertaken pursuant to Section 104 of CERCLA will be coordinated with the use of enforcement authorities available to the Environmental Protection Agency (EPA or the Agency) and the Department of Justice (DOJ). These include the issuance of administrative orders, enforcement of standards and permits, the gathering of information, and other imminent hazard and emergency powers.

Consistent with proposed revisions to the National Contingency Plan (NCP), FR Vol. 47, No. 49, page 10472, March 12, 1982, it is EPA policy to continue to pursue enforcement actions as an alternative to or complementary with Fund-financed response activities. This policy is necessary to ensure that the limited Superfund resources are utilized to the maximum extent possible where there is no solvent responsible party and therefore no alternative to Government response. Further, it is Agency policy to seek, whenever possible, cleanup by responsible parties prior to recourse to either the Fund or litigation. To this end EPA may, whenever possible, provide notice to potentially responsible parties and an opportunity to confer with the Agency in an effort to develop a satisfactory cleanup agreement.

While hazardous substance problems are widespread, their resolution is inherently site specific and requires developing response and/or enforcement actions at each site which are tailored to individual circumstances. Thus, an enforcement program to solve these problems must retain sufficient flexibility to be adaptable to a wide range of situations. Within the broad policy framework established by the proposed revisions to the NCP, selection of the appropriate enforcement tools to achieve the statutory goals must, of necessity, be based on case-by-case determinations.

The Administrator of EPA has consulted with the Attorney General in the preparation of these guidelines.

Available Federal Legal Authorities

Federal legal authorities available to compel responsible parties to address threats created by hazardous substances including both administrative and judicial actions. These authorities exist not only under CERCLA but are found in a variety of other statutes including the Resource Conservation and Recovery Act (RCRA), the Clean Water Act (CWA), the Clean Air Act (CAA), the Toxic Substances Control Act (TSCA), the Safe Drinking Water Act (SDWA) and common law. The range of potential actions which may be ordered or sought covers all phases of hazardous substances problems from initial information gathering needed to determine the existence and location of a potential problem, to complete elimination of the problem. Which particular authority or authorities will be used and whether to precede court action with administrative action will be determined on a case-by-case basis depending upon the most effective approach for achieving the desired goal of site cleanup.

The statutory authorities listed above provide EPA with several categories of enforcement tools designed to facilitate enforcement of the relevent statutes, including:

1. Authority to obtain existing data regarding a possibly hazardous condition:

a. Section 3007, 3013, 7003 RCRA—right of entry; obligation to furnish information.

b. Section 104(b), 104(e) and 106(a) CERCLA—right of entry; obligation to furnish information.

c. Section 8 and 11 TSCA—subpoena; regulations to maintain or submit information.

d. Section 308 CWA—right of entry; obligation to furnish information.

e. Section 114 CAA—right of entry; obligation to furnish information.

f. Section 1445 SDWA—right of entry; obligation to furnish information.

2. Authority to require responsible parties to collect data:

a. Sections 3007(a), 3013 and 7003 RCRA—administrative orders, penalties and court action.

b. Section 103(d) CERCLA—regulations to maintain records.

c. Sections 106 (a) and (b) CERCLA—administrative orders, penalties and/or court actions.

d. Section 8 TSCA—regulations to maintain or submit records.

e. Section 308(a) CWA—recordkeeping, sampling and monitoring.

f. Section 114 CAA—recordkeeping, sampling and monitoring.

g. Section 321 CAA—subpoena.

h. Section 1445 SDWA—regulations to maintain records.

3. Authority to compel responsible parties to cleanup hazardous conditions:

a. Sections 3008 and 7003 RCRA—administrative orders, penalties and court action.

b. Sections 106 (a) and (b) CERCLA—administrative orders, penalties and court action.

c. Section 504 CWA—court action.

d. Section 1431 SDWA—administrative orders, penalties and court action.

e. Sections 6 and 7 TSCA—court action.

f. Sections 113 and 303 CAA—court action.

4. Authority to recover money expended by the government to investigate and cleanup a hazardous condition:

a. Sections 107(a) and 112(c)(3) CERCLA—court action.

b. Section 311(f) CWA—court action.

c. Sections 3013 (d) and (e) RCRA—administrative orders and court action.

5. Penalties for failure to comply with administrative orders, regulations or permit conditions:

a. Sections 3008, 3013 and 7003 RCRA—civil penalties, fines and imprisonment.

b. Sections 103(d) and 106(b) CERCLA—fines and imprisonment.

c. Section 107(c)(3) CERCLA—punitive damages.

d. Sections 1431 and 1435 SDWA—fines.

e. Sections 311(b) (5) and (6) CWA—civil penalties, fines and imprisonment.

f. Sections 309 (c) and (d) CWA—civil penalties, fines and imprisonment.

g. Section 16 TSCA—civil penalties, fines and imprisonment.

h. Section 17 TSCA—specific enforcement and seizure.

i. Section 113 CAA—civil penalties, fines and imprisonment.

In addition to these statutory authorities CERCLA specifically preserves the Federal and/or State common law, as an available legal tool.

Under the general doctrine of public nuisance the United States can seek to compel a responsible party to investigate the nature and extent of a hazardous condition, take remedial action to correct that condition, and pay the costs incurred by the government in investigating the problem and taking any remedial action.

There are obviously differences inherent in the statutory provisions that are applicable to the utilization of these authorities. These differences will influence decisions on the choice of legal authorities and legal approaches for any case.

The meaning and reach of these statutory authorities is a matter under continuous review by Federal courts. The EPA and Department of Justice view of what these provisions mean is expressed in the public documents filed in these cases. The Court decisions provide the interpretation and guidance, and the meaning ascribed to the statutory provisions obviously evolves as new cases produce new decisions. These decisions in turn shape EPA and DOJ decisions concerning which statutes to employ.

Coordination of Enforcement With Response Activities

A. *General.* Agency policy as reflected in the preamble to the proposed revisions to the NCP, is that enforcement is to be used as an alternative to or complementary with the use of Superfund monies.

Early involvement of State and Federal personnel in the site identification and priority setting process is contemplated by the proposed revisions to the NCP. Before Superfund money is authorized for expenditure at any site where EPA is the lead Agency, it will be determined, based on the exigencies of the hazard presented and input from the legal and program personnel involved, whether enforcement, Fund use, or some combination of the two is appropriate.

This is emphasized by numerous references throughout Subpart F of the proposed revisions to the NCP pertaining to the need to undertake efforts to identify non-Federal potentially responsible parties simultaneously with the technical investigation of a release or threatened release. See, for example, §§ 300.63(a)(3), 300.65(b) and (e).

Further, § 300.65(d) of the proposed revisions to the NCP describes the Hazard Ranking System (HRS) that will be applied to sites to allow a comparison of risk or danger in widely varying situations. The criteria in the HRS are applicable to any site, regardless of the existence of potentially responsible parties.

It is the responsibility of the Office of Solid Waste and Emergency Response through its Regional program personnel, with the assistance of Agency legal personnel, the Department of Justice, and State legal personnel where appropriate, to undertake the necessary investigations to determine the existence of potentially responsible parties for releases or threatened releases where EPA is the lead Agency under the proposed revisions to the NCP.

Prior to the initiation of either Fund-financed response activity or enforcement action, the Agency will attempt to provide oral or written notice, where appropriate considering the exigencies of the situation, to identifiable potentially responsible parties (individual, corporate or public) who may be partially or wholly responsible for the hazard at a particular site. This notice is intended to provide potentially liable responsible parties with an opportunity to undertake required cleanup in lieu of Government response and to advise these parties of their potential liability should the Government undertake the cleanup of the release or threatened release. This notice is not, however, a condition precedent to undertaking a response action or an action to recover money spent during such a response.

Where these efforts prove unsuccessful in leading to a satisfactory cleanup agreement, the Agency will determine whether to employ the Fund for site cleanup or to use one or more of the various administrative and/or judicial tools described in these guidelines in lieu of or in combination with Fund use. These decisions will be made jointly by the Office of Legal and Enforcement Counsel and the Office of Solid Waste and Emergency Response with input as appropriate from the On Scene Coordinator (OSC), the Regional Response Team (RRT) or National Response Team (NRT), when activated, and the Department of Justice.

When the decision is made to employ the Fund for site cleanup, every effort will be made by the Office of Legal and Enforcement Counsel to recover the Government funds expended, including referral to the Department of Justice for collection action where necessary.

The Agency will necessarily employ a significant percentage of its enforcement resources at those hazardous waste sites on the Interim and Final National Priorities List for which responsible parties can be identified. However, sites not in the priority ranking system described in the proposed revisions to the NCP may also be the subject of enforcement actions where appropriate.

B. *Extent of Remedy.* As stated in the preamble to the proposed revisions to the NCP, the Agency has, on a case-by-case basis, historically made a combined legal and scientific judgment in enforcement actions as to the appropriate extent of remedy, by consideration of a variety of generic and case specific factors. This has resulted in settlements and initial court decisions calling for remedial activity in individual circumstances ranging from complete elimination or removal of contaminants to nondetectable levels, to installation of containment and/or treatment alternatives in addition to or in lieu of rehabilitation of the contaminated environment.

This case-by-case determination of the appropriate extent of remedy will continue for responsible party cleanup at Superfund sites. The Agency will seek, through voluntary agreement or administrative or judicial processes, to have those persons responsible for the release cleanup in a manner that effectively mitigates and minimizes damage to and provides adequate protection of public health, welfare, and the environment. EPA will evaluate the adequacy of cleanup proposal submitted by responsible parties or determine the level of cleanup to be sought through enforcement efforts, by consideration of the factors described in §§ 300.67 (e) through (j) of Subpart F of the proposed revisions to the NCP. The Agency will not, however, apply the cost balancing considerations discussed in section 104(c)(4) of the Act and § 300.67(k) of Subpart F of the proposed revisions to the NCP to determine the appropriate extent of remedy for responsible party cleanup. These cost balancing considerations are applicable only to Fund-financed activities.

C. *Coordination With States.* It is the intent of these guidelines to encourage those States that are willing and able to do so, to take the lead in bringing enforcement actions to address hazardous waste problems.

Coordination of Fedeal actions with State actions will be primarily accomplished through the use of cooperative agreements as provided in section 104(d) of CERCLA.

On a case-by-case basis, State and Federal legal officials will decide whether State or Federal or a combined enforcement action is appropriate. Where the State is taking the enforcement lead, EPA and DOJ may provide legal assistance as appropriate, including access to expert witnesses, sample analysis capability, and training

Suits to recover Superfund money whether expended directly by the Federal officials or spent by State officials following allocation of funds from the Federal government will remain the responsibility of Federal officials. Section 300.68 of Subpart F of the proposed revisions to the NCP requires that all documentation of activities at a site shall be collected and maintained to form the basis for cost recovery. For this reason there will be a continuing close relationship between State and Federal officials with respect to actions where the State is taking the enforcement lead.

Conclusion

As the preceeding discussion clearly shows, enforcement and Fund use decisions are closely linked from the early stages of hazardous waste site identification and assessment. The intent is that identification of responsible parties proceed contemporaneously with site hazard ranking to encourage maximum non-Federally financed cleanup, and to insure timely enforcement action should it become necessary. Should enforcement prove necessary the Agency and DOJ will encourage and support maximum use of State authorities and personnel. If Federal enforcement authorities are utilized, the Agency will issue administrative orders, and/or undertake judicial actions in cooperation with DOJ, that seek to impose reasonable, cost-effective remedies that achieve levels of cleanup that effectively mitigate and minimize damage to and provide adequate protection to public health, welfare and the environment, consistent with the proposed revisions to the NCP.

Dated: May 11, 1982.

John E. Daniel,

Acting Administrator.

[FR Doc. 82-13133 Filed 5-12-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10427; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 24, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreement No. T-4044.

Filing party: Mr. Douglas J. Sealy, Goldman, Sachs and Co., 55 Broad Street, New York, New York 10004.

Summary: Agreement No. T-4044 is a terminal lease agreement for dock facilities between South Lousiana Port Commission as lessor (Port) and Rogers Terminal and Shipping Corporation, as lessee (Rogers). The purpose of the agreement is to facilitate the issuance of industrial revenue bonds in the amount of $15,375,000 which are to finance the cost of construction of Rogers' dock and wharf facility to be moored in the Parish of St. James, Louisiana. The bond issuance procedure requires the transfer of said facilities to the Port, who will, in turn, lease the facilities back to Rogers. Rental under the agreement will be used to fund repayment of the bond, and at the end of the 20-year bond period (also the term of the agreement) the facilities will be transferred by the Port back to Rogers. The facilities will be used as a floating bulk cargo transfer facility. The project will be operated and maintained throughout the lease term as part of the public port of the lessor, and lessor shall have the exclusive right to and shall assess and collect dockage fees for all vessels berthing at the project and to issue an appropriate tariff covering such charges and their application. Further provision is made for apportionment of such revenues.

By order of the Federal Maritime Commission.

Dated: May 10, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-13027 Filed 5-12-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of facts that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *SouthTrust Corporation,* Birmingham, Alabama; to acquire 90 percent or more of the voting shares or assets of The First National Bank of Piedmont, Piedmont, Alabama. Comments on this application must be received not later than June 5, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Colorado National Bankshares, Inc.,* Denver, Colorado; to acquire 80 percent or more of the voting shares or assets of Republic National Bank of Englewood, Englewood, Colorado. Comments on this application must be received not later than June 4, 1982.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *North Texas Bancshares, Inc.,* North Richland Hills, Texas; to acquire 100 percent of the voting shares or assets of the successor by merger to Arlington State Bank, Arlington, Texas.

Comments on this application must be received not later than June 4, 1982.

Board of Governors of the Federal Reserve System, May 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12988 Filed 5-12-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) and of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 4, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (export finance company activities; worldwide): To engage through a *de novo* subsidiary, Citicorp Export Credit Corporation ("CECC"), in the making of loans to United States-domiciled exporters to finance purchases of goods and services of United States manufacture or origin and/or costs incidental thereto. Such loans would be made or acquired by CECC from an office located in New York, New York, and these activities would be offered and operated throughout the world.

2. *Peoples BanCorp*, Belleville, New Jersey (serving activities; New York, New Jersey, Connecticut): To engage through its subsidiary, Peoples Financial Services Corporation, in the servicing of third party automobile leases. Such service activities will include the safekeeping of documents, filing of registration and title documents, obtaining proof of insurance and the remitting of taxes. Such activities will be conducted in an office in Belleville, New Jersey serving New York, New Jersey, and Connecticut.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Maryland National Corporation*, Baltimore, Maryland (mortgage banking, consumer finance, leasing, servicing, and insurance sales; mail solicitation, nationally): Engaging generally in the business of a mortgage banker, mortgage broker and mortgage servicing firm, including but not limited to, second mortgage financing; originating, buying, selling and otherwise dealing in mortgage loans as principal or agent; servicing mortgage loans for affiliated or nonaffiliated entities; acting as adviser in mortgage loan and second mortgage loan transactions; making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a finance company or consumer finance company; making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a credit card company; engaging generally in the business of leasing personal property, including but not limited to, the leasing of various types of equipment, machinery, vehicles, transportation equipment and data processing equipment; originating, buying, selling or otherwise dealing in consumer finance paper, sales finance paper, credit card receivables and personal property leases as principal or agent; servicing consumer finance, sales finance and credit card receivables, and personal property leases for affiliated or nonaffiliated entities; and engaging in the sale as agent of credit life, credit disability, credit accident and health, loan redemption and loans cancellation insurance in connection with extensions of credit by bank and nonbank subsidiaries of the holding company. (Loan redemption and loan cancellation insurance will be limited to decreasing term policies and will not include level term policies.) Activities would be conducted by National Consumer Discount Company from an office in Newark, Delaware.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *BankAmerica Corporation*, San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; California, Idaho, Montana, Nebraska, Oregon, Washington, and Wyoming): To continue to engage, through its three indirect subsidiaries, FinanceAmerica Corporation, and Oregon corporation, FinanceAmerica Corporation, an Idaho corporation and FinanceAmerica Corporation, a Wyoming corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance, credit-related accident and health insurance, and credit-related property insurance in each state except California, where credit-related property insurance will not be offered.

Such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit secured by real and personal property, and offering credit-related life, credit-related accident and health and credit-related property insurance, except where otherwise noted above, directly related to extensions of credit made or acquired by each of the three corporations.

These activities will be conducted from three existing offices located in Portland, Oregon, serving the entire States of Oregon, California and Washington; Boise, Idaho, serving the entire States of Idaho, Oregon and Montana; and Cheyenne, Wyoming, serving the entire States of Wyoming, Montana and Nebraska.

2. *Wells Fargo & Company*, San Francisco, California (finance activities; United States): To engage *de novo* through its subsidiary, Wells Fargo Realty Services, Inc., in making, acquiring and servicing real estate related loans and other extensions of credit for its own account or for the account of others to the extent permissable under applicable state law. These activities would be conducted from an office in Pasadena, California, serving the entire United States.

Board of Governors of the Federal Reserve System, May 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12987 Filed 5-12-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than May 29, 1982.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Island (formerly Industrial National Corporation); (mortgage banking and insurance activities; Illinois); To engage, through its subsidiary, Mortgage Associates, Inc., in mortgage banking activities and insurance agency activities involving the sale of credit life and credit accident and health insurance directly related to an extension of credit. These activities would be conducted from an office located at Suite 1, 10046 South Western Avenue, Chicago, Illinois serving communities in the central portion of Cook County, Illinois.

2. *Industrial National Corporation*, Providence, Rhode Island (mortgage banking, servicing and insurance activities; Florida): To engage, through its subsidiary, Fleet Mortgage Brokers, Inc., in mortgage brokerage, origination and sale of mortgage loans, servicing of mortgage loans and acting as agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from an existing office located at 4554 S. Orange Blossom Trail, Orlando, Florida, serving central and southwest Florida.

3. *Old Stone Corporation*, Providence, Rhode Island (mortgage banking and insurance agency activities; Georgia): To engage through a new office of its subsidiary, DAC Corporation of Georgia, in the origination, sale and servicing of first and second mortgage loans, the sale of credit life and credit health and accident insurance offered in connection with extensions of credit, which insurance would be reinsured by an affiliate, Motor Life Insurance Company, Jacksonville, Florida; and the sale of casualty insurance on property mortgaged in connection with extensions of credit. These activities would be conducted from a new office at Suite 127, 1895 Phoenix Boulevard, College Park, Georgia, serving the southwest metropolitan area of Atlanta and the Georgia counties of Clayton, Fulton, and DeKalb.

B. **Federal Reserve Bank of New York** (A. Marshal Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation*, New York, New York (consumer lending, related lending and insurance brokerage activities and sale of travelers checks at retail; Arizona): To engage through its subsidiary, Chase Manhattan Financial Services, Inc., in the following activities: to make or acquire, for its own account and for the account of others, loans and other extensions of credit, both secured and unsecured, including but not limited to, consumer and business lines of credit, installment loans for personal, household and business purposes and mortgage loans for personal, household and business purposes and mortgage loans secured by real property; to service loans and other extensions of credit; to sell travelers checks at retail; to act as insurance agent or broker for credit life insurance and credit accident and health insurance directly related to such lending and servicing activities. These activities will be conducted from an office in Tucson, Arizona, which will serve the State of Arizona.

2. *Manufacturers Hanover Corporation*, New York, New York (consumer finance and credit insurance activities; Tennessee): To engage through its indirect subsidiary, Finance One of Tennessee, Inc. ("Finance One"), in the making or acquiring of direct loans, secured or unsecured, such as would be made by a finance company; and acting as agent or broker for the sale of credit life insurance directly related to such lending activity. These activities would be conducted from a previously existing Finance One office located in Memphis, Tennessee. The service area of the office would include the State of Tennessee.

3. *Manufacturers Hanover Corporation*, New York, New York (financing, servicing, and credit insurance activities; Tennessee): To expand the service area for previously approved activities of an office of its subsidiary, Finance One of Tennessee, Inc., located in Memphis, Tennessee. The previoulsy approved activities include arranging, making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by a homeowner's equity interest in a home such as would be made by a consumer finance company, servicing such loans and other extensions of credit for any person, and acting as an agent or broker for the sale of single and joint credit life insurance directly related to such loans and extensions of credit. The office presently serves customers in the following counties: southern Lauderdale, western Haywood, western Hardeman, Fayette, Tipton, and Shelby. The service area would be expanded to include the entire State of Tennessee.

4. *Manufacturers Hanover Corporation*, New York, New York (consumer finance and credit insurance activities; Florida): To engage through its indirect subsidiary, Finance One Mortgage of Florida, Inc. ("Finance One"), in the making or acquiring of direct loans, secured or unsecured, such as would be made by a finance company; and acting as agent or broker for the sale of credit life insurance directly related to such lending activity. These activities would be conducted from a previously existing Finance One office located in Tampa, Florida.

5. *Manufacturers Hanover Corporation*, New York, New York (financing, servicing and insurance activities; Florida): To expand the service area for previously approved

activities of an office of its subsidiary, Finance One of Florida, Inc., located in Tampa, Florida. The previously approved activities include arranging, making, acquiring, or servicing, for its own account or for the account of others, loans and other extensions of credit secured by an equity interest in a home; acting as agent or borker for the sale of credit life and credit accident and health insurance; purchasing installment sales finance contracts; and acting as agent or broker for the sale of credit related life and accident and health insurance. The office presently serves customers in the following counties: Hernando, Pasco, Hillsborough, Pinellas, Manatee, western Polk, southwestern Sumter, and northwestern Hardee. The service area would be expanded to include the entire State of Florida.

6. *Manufacturers Hanover Corporation,* New York, New York (consumer finance and credit insurance activities; Alabama): To engage through its indirect subsidiary, Finance One of Alabama, Inc. ("Finance One"), in the making or acquiring of direct loans, secured or unsecured, such as would be made by a finance company; and acting as agent or broker for the sale of credit life insurance directly related to such lending activity. These activities would be conducted from a previously existing Finance One office located in Homewood, Alabama. The service area of the office would include the State of Alabama.

7. *Manufacturers Hanover Corporation,* New York, New York (financing, servicing, and credit insurance activities; Alabama): To expand the service area for previously approved activities of an office of its subsidiary, Finance One of Alabama, Inc., located in Homewood, Alabama. The previously approved activities include purchasing installment sales finance contracts, and acting as agent or broker for the sale of single credit life insurance and credit accident and health insurance which is directly related to such loans and extensions of credit; purchasing motor vehicle sales finance contracts, and the sale of credit life insurance directly related to such lending activity; arranging, making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by a homeowner's equity interest in a home such as would be made by a consumer finance company, servicing such loans and other extensions of credit for any person, and acting as an agent or broker for the sale of single credit life insurance which is directly related to such loans and extensions of credit. The office presently serves customers in the following counties: Cullman, Blount, easter Etowah, southeastern Winston, Walker, Jefferson, Saint Clair, eastern Fayette, eastern Tuscaloosa, Shelby, Talladega, southwestern Clay, northwestern Coosa, northern Chilton, Bibb, and western Calhoun. The service area would be expanded to include the entire State of Alabama.

8. *Manufacturers Hanover Corporation,* New York, New York (consumer finance and credit insurance activities; New Jersey): To engage through its indirect subsidiary, Finance One of New Jersey, Inc. ("Finance One"), in the making or acquiring of direct loans, secured or unsecured, such as would be made by a finance company; and acting as agent or broker for the sale of credit life insurance directly related to such lending activity. These activities would be conducted from a previously existing Finance One office located in Linwood, New Jersey. The service area of the office would include the State of New Jersey.

9. *Manufacturers Hanover Corporation,* New York, New York (financing, servicing, and credit insurance activities; New Jersey): To expand the service area for previously approved activities of an office of its subsidiary, Finance One of New Jersey, Inc., located in Linwood, New Jersey. The previously approved activities include arranging, making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by a homeowner's equity interest in a home such as would be made by a consumer finance company, servicing such loans and other extensions of credit for any person, acting as an agent or broker for the sale of single and joint credit life insurance which is directly related to such loans and extensions of credit; purchasing installment sales finance contracts, and acting as an agent or broker for the sale of single and joint credit life insurance and credit accident and health insurance which is directly related to such loans and extensions of credit. The office presently serves customers in the following counties: Gloucester, Cape May, Camden, Atlantic, Salem, Cumberland, Burlington, and Ocean. The service area would be expanded to include the entire State of New Jersey.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation,* Los Angeles, California (financing and credit-related insurance activities; Ohio): To engage through its subsidiaries Security Pacific Finance Corp. and Security Pacific Finance Credit Corp., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer intallment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company and acting as broker or agent for the sale of credit-related property from offices of Security Pacific Finance Corp. and Security Pacific Finance Credit Corp., located in Beachwood, Ohio, serving the State of Ohio.

2. *U.S. Bancorp* ("Bancorp"), Portland, Oregon (real estate appraisal activities; Oregon): To engage in appraisals of commercial and residential real estate for its customers and outside clients in conformance with the provisions of Section 225.4(a)(14) of Regulation Y. These activities would be conducted from an office at 555 S.W. Oak Street, Portland, Oregon serving customers in the western United States, primarily in the State of Oregon.

3. *U.S. Bancorp* ("Bancorp"), Portland, Oregon (industrial banking activities; Colorado): To engage, through Grand Junction U.S. Industrial Bank ("Grand Junction Industrial"), a wholly-owned subsidiary of U.S. Bancorp Financial, Inc. ("Bancorp Financial"), a wholly-owned subsidiary of Bancorp in performing the activities of making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others, including, but not limited to, commercial, consumer loans; installment sales contracts and other forms of receivables; issuing passbook and investment certificates; making investments as permitted by Colorado Revised Statutes 11–22–101 to 11–22–517; and acting as insurance agent with regard to credit life and disability insurance solely in connection with extensions of credit by Grand Junction Industrial. Bancorp relies upon the relevant provision of § 225.4(a) of Regulation Y as follows: 225.4(a) (1), (2), (3), and (9)(i)(a). Bancorp also relies upon Section 4(c)(8) of the Act to conduct these activities. The proposed Industrial Bank will be located near the intersection of 24½ Road and U.S. Highway 6–50 in an unincorporated area of Mesa County near the western city limits of Grand Junction, Colorado. The site is directly across 24½ Road from the recently opened Mesa Mall, which is a 666,000 square foot shopping center

and is the only major shopping center in Mesa County. The geographic area to be served will be within a 3-mile radius of the office.

Board of Governors of the Federal Reserve System, May 6, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12989 Filed 5-12-82; 8:45 am]

BILLING CODE 6210-01-M

Bankers Trust International; Restructuring of U.S. Branches of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Bankers Trust International (Miami) Corporation, Miami, Florida; Bankers Trust International (Midwest) Corporation, Chicago, Illinois; Bankers Trust International (Pacific) Corporation, Los Angeles, California; and Bankers Trust International (Southwest) Corporation, Houston, Texas; all corporations organized under section 25(a) of the Federal Reserve Act ("Edge Corporations"), and their parent company, Bankers Trust Company, New York, New York have applied for the Board's approval under § 211.4 of the Board's Regulation K (12 CFR 211.4) to restructure the operations of the subject Edge Corporations as follows: to consolidate its Edge Corporations in Miami, Chicago, Los Angeles and Houston into one corporation, headquartered in Miami, Florida, and named Bankers Trust International; and to convert the Edge Corporation offices in Chicago, Los Angeles, and Houston, into branches of Bankers Trust International, Miami, Florida.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than June 6, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12985 Filed 5-12-82; 8:45 am]

BILLING CODE 6210-01-M

Philadelphia International Bank; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Philadelphia International Bank, New York, New York, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's regulation K (12 CFR 211.4(c)(1)), to establish branches in Philadelphia, Pennsylvania, and Los Angeles, California, and to redesignate the Philadelphia branch as its main office. Philadelphia International Bank, operates as a subsidiary of Philadelphia National Bank, Philadelphia, Pennsylvania.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than June 6, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12986 Filed 5-12-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of June 1982.

Basic Behavioral Processes Research Review Committee
June 3–4, 9:00 a.m.
The Shoreham Hotel
2500 Calvert Street, N.W.
Washington, D.C.

Open—June 3, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Anita Lipkin, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936

Purpose: The Basic Behavioral Processes Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and activities in the field of experimental and physiological psychology and comparative behavior, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9–10 a.m., June 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Alcohol Psychosocial Research Review Committee
June 9–11; 9:00 a.m.
Embassy Square Hotel, 2000 N Street, N.W.
Washington, D.C.

Open—June 9, 9:00 a.m.–1:30 p.m.
Closed—Otherwise
Contact: Jane A. Taylor, Ph.D., Room 16C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.

Purpose: The Alcohol Psychosocial Reserch Review Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and research training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 a.m.–1:30 p.m., June 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the

public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Epidemiologic and Services Research Review Committee

June 14–17; 9:00 a.m.

Washington Marriott Hotel, Thomas Salon

1221 22nd Street, N.W.

Washington, D.C.

Open—June 14, 9:00–10:00 a.m.

Closed—Otherwise

Contact: Gloria Yockelson, Room 4–68, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6470

Purpose: The Epidemiologic and Services Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and training activities in the fields of mental health epidemiology, mental health systems research, mental health services development, and evaluation methodology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., June 14, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Room 16C06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3887. NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room 17C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: May 7, 1982.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82–13009 Filed 5–12–82; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

Work Group on Isolation Techniques Manual; Open Meeting

On June 1, 1982, the Centers for Disease Control will convene an open meeting of a work group to finalize the manual entitled, "Isolation Techniques for Use in Hospitals," so that the manual will contain appropriate isolation techniques to prevent disease transmission in hospitals. The meeting is open to the public, limited only by space available.

The meeting is scheduled to convene at 8:00 a.m. in Room SSB–19, Building 3, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

For further information, please contact: Bryan P. Simmons, M.D., Hospital Infections Branch, Center for Infectious Diseases, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia. Telephones: FTS: 236–3408, Commercial: 404/329–3408.

Dated: May 4, 1982.

J. Michael Lane,

Acting Director, Centers for Disease Control.

[FR Doc. 82–13028 Filed 5–12–82; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice to Lessees and Operators (NTL) on the Outer Continental Shelf (OCS) Concerning Royalty Payments on Oil and Gas Lost or Used on Leases or Units on OCS

AGENCY: Minerals Management Service, Interior.

ACTION: Notice to Lessees and Operators (NTL) on the Outer Continental Shelf (OCS) concerning royalty payments on oil and gas lost or used on leases or units on the OCS.

SUMMARY: This Notice is being issued to conform to a recent court decision relating to royalty payments on oil or gas lost, vented, flared, or used in lease or unit operations.

DATE: This Notice shall become effective June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Prehoda, Branch of Offshore Field Operations, Offshore Minerals Management Division, Minerals Management Service, Mail Stop 640, Reston, Virginia 22091, telephone (703) 860–7564.

PRINCIPAL AUTHOR: Ronald Prehoda, address and telephone number as above.

SUPPLEMENTARY INFORMATION: On December 11, 1980, an NTL was published in the **Federal Register** Vol. 45, No. 240, p. 81669) concerning royalty obligation on oil or gas lost or used on leases or units on the OCS. This NTL required royalty payment on oil or gas production avoidably lost and, for leases issued after July 1, 1974, on oil and gas used for purposes of production from and operations within or outside the lease or unit area.

A judgment issued November 25, 1981, by the U.S. District Court for the eastern district of Louisiana (Amoco Production Company v. Cecil D. Andrus, Civil No. 77–3351) has the effect of invalidating the Minerals Management Service's (MMS) authority to collect royalty payments on the aforementioned oil and gas.

Accordingly, this Notice is being issued to reflect the court's ruling in the matter.

Notice to Lessees and Operators of Federal Leases in the Outer Continental Shelf

Royalty Payments on Oil and Gas Lost and Used

This Notice supersedes the Notice to Lessees and Operators (NTL) published in the **Federal Register** on December 11, 1980, (Vol. 45, No. 240, p. 81669). This Notice reflects the ruling of November 25, 1981, by the U.S. District Court for the eastern district of Louisiana, Amoco Production Company v. Cecil D. Andrus, Civil No. 77–3351.

I. General

Effective June 1, 1974, royalty is not due on (1) any oil or gas that is leaked, spilled, vented, flared, or otherwise lost, or (2) on oil and gas used for purposes of production from and operations within or outside the lease or unit area. Gas and associated liquids used for reinjection in a reservoir within the same lease or unit will be subject to a royalty obligation at the time they are finally produced.

Royalty is due on all other oil and gas production.

II. Refunds

Lessees and operators who submitted royalty payments under provisions of prior NTL's, to the extent that those provisions are contrary to this NTL, may

apply for a refund of those payments. Applications for refunds shall be in the form of a letter signed by an authorized officer or agent of the lessee/operator and for each individual lease shall include:

1. The lease prefix code and lease number.

2. The specific month and year.

3. The product code (01, 02, 03, 04, 41, or 43) used in the reports and payments previously submitted.

4. The volume of exempt oil and/or gas previously reported and the amount of the refund requested.

5. The total amount of refund requested for each lease as a subtotal.

6. The total amount of the refund requested for all leases as a grand total.

Applications for refunds are subject to audit by the Minerals Management Service (MMS) prior to payment. Additional instructions in regard to the filing and contents of said applications may be obtained by contacting the Deputy Minerals Manager having jurisdiction over the lease or leases involved.

Dated: May 5, 1982.

James N. Parrish,

Acting Associate Chief, Offshore Minerals Management Division.

[FR Doc. 12912 Filed 5-12-82; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Land Management

Florida; Sanibel/Pine Island Sound Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Florida; Sanibel/Pine Island Sound Plan.

Pursuant to the responsibilities outlined in 43 CFR 1601.3(e), the Eastern States Office (ESO) of the Bureau of Land Management (BLM), U.S. Department of the Interior, announces that the draft *Sanibel/Pine Island Sound Plan* has been completed and is available for public comment. A public meeting on the plan is scheduled for May 28, 1982, in Fort Myers, Florida.

Geographic Area of the Plan

The plan considers, as a single planning unit, all public lands, islands, and Federal mineral ownership (FMO) under BLM jurisdiction in Lee, Charlotte, and Collier Counties, Florida. Included are sixty surface tracts, totalling approximately 875 acres of public domain land, and approximately 7,300 acres of FMO.

Background of the Plan

Preparation of BLM by a planning document for the three-county area was first announced in the October 22, 1980 **Federal Register.** At that time the document was entitled *Pine Island Sound/Sanibel Resource Management Plan* (RMP). The October 22, 1980 notice included a list of anticipated issues, a discussion of the interdisciplinary team that would prepare the plan, and an outline of the procedural steps to be followed pursuant to BLM's Resource Management Planning Process (43 CFR Part 1601). A public meeting on the plan was held in Fort Myers, Florida, on November 6, 1980.

By June 1981, each of the procedural steps, up to and including "Formulation of Alternatives," was completed, and the results made available for public comment. A second public meeting was held in Fort Myers on June 3, 1981. By October 1981, the steps entitled "Estimated Effects of Alternatives" and "Selection of a Preferred Alternative" were completed and ready for public review. By this time, however, a number of program and policy factors had come into play at ESO, leading to a decision to restructure the RMP, change its title to *Sanibel/Pine Island Sound Plan,* and complete the plan under newly-established streamlined procedures.

The factors that led to the decision included:

(1) The lack of significant issues within the planning area;

(2) The limited amount of surface/subsurface BLM ownership;

(3) The low to non-existent mineral potential;

(4) The willingness of other governmental entities to assume purposeful management;

(5) A very limited response by the affected publics to the plan's findings, issues and recommendations;

(6) Departmental and Bureau policy changes designed to streamline the planning process;

(7) Budget directives designed to eliminate the use of the RMP process where significant issues or concerns do not appear to exist, and the use of alternative analysis to provide management with a basis for decision-making;

(8) National, Departmental, and Bureau policy with respect to transfer and sale of BLM-administered resources;

(9) Development at ESO of a streamlined planning system (as part of its State Director Guidance, as authorized by 43 CFR 1601) designed to identify ESO resources and provide the basis upon which management decisions can be made regarding the allocation of resources to other entities via transfer/disposal or public sale.

Based on these factors, which are discussed at length in the draft plan, a decision was made, using the State Director Guidance, to review the status of the plan and, in March 1982, to complete the plan with an Environmental Analysis (EA). The EA would determine the necessity or lack of necessity for an environmental impact statement (EIS), based on whether the plan recommendations, if implemented, would have a significant impact upon the human environment.

The planning document that stemmed from this decision, the *Sanibel/Pine Island Sound Plan,* considers the same issues, and was assembled by the same interdisciplinary team, as outlined in the original **Federal Register** notice of October 22, 1980. The recommendations included in the current plan are the same ones developed by October 1981 under "Selection of Preferred Alternative" step of the RMP process. The primary differences between the new plan and the original RMP are an accelerated schedule for completion of the plan, and a reliance on an EA to determine whether or not to prepare an EIS.

Recommendations of the Plan, Including EA Findings

The following actions were recommended by the Manager of the Tuscaloosa Office and concurred with by the Acting Eastern States Director:

(1) Withdraw to the U.S. Fish and Wildlife Service approximately 29 island tracts (410 acres) in Pine Island Sound and Matlacha Pass (resolving withdrawal applications ES-17462 and BLM-049147);

(2) Transfer the Point Blanco Island tract (58 acres) to Lee County as a county park (resolving the conflict between R&PP application BLM-072113 and withdrawal application ES-14330);

(3) Transfer the Corkscrew Swamp area tract (30 acres) to Lee County if an application is received, or else offer for public sale;

(4) Transfer the three Rookery Bay area tracts (310 acres) to the State of Florida for inclusion in the Rookery Bay National Estuarine Sanctuary;

(5) Transfer the remaining tracts to the State of Florida for inclusion in the Charlotee Harbor Aquatic Preserve and Environmentally Endangered Lands (EEL) Preserve (four tracts, 1.29 acres); the Cape Romano-Ten Thousand Island Aquatic Preserve (seven tracts, 40 acres); the Estero Bay Aquatic Preserve (five tracts, 4 acres); and the Pine Island Sound and Matlacha Pass Aquatic

Preserves or the Cayo Costa EEL Preserve (five tracts, 20 acres); and

(6) Maintain management responsibility for FMO with potential for development, and transfer FMO found to be without value to the surface ower/administrator, after detailed geologic investigation.

Based on the analysis of the environmental impacts associated with the proposed action and alternatives, it was determined that the plan recommendations do not constitute a major Federal action significantly affecting the qualify of the human environment. Therefore, pursuant to Section 101(2)(c) of the National Environmental Policy Act, an environmental impact statement was not required, and a Finding of No Significant Impact (FONSI) was prepared.

Availability of the Summary and Planning Documents

A summary of the draft plan is being mailed to public officials, organizations, and interested members of the public who have received information in the past regarding BLM planning in the three-county area. The complete draft document, including plan map and technical appendices, is available for inspection at the Tuscaloosa Office, Bureau of Land Management, 518 19th Avenue, Tuscaloosa, Alabama 35401. Telephone: (205) 759–5441. Copies of the summary are available from the same address.

Wilderness Review Decisions

Also available is a 3-page summary of the Wilderness Review announced in the October 22, 1980 **Federal Register** and performed simulaneously with the Sanibel/Pine Island Sound planning process. Recipients of the summary of the draft plan will also receive the summary of the Wilderness Review.

The Wilderness Review in the three-county area followed guidelines set forth in the **Wilderness Inventory Handbook**, in accordance with Section 603 of the Federal Land Policy and Management Act of 1976.

During initial wilderness inventory the public domain lands in the planning area were reviewed as 25 wilderness inventory units. Nine islands or groups of islands were recommended for intensive wilderness inventory. During intensive inventory, they were found to lack outstanding opportunities for solitude or for primitive or unconfined recreation. A decision, therefore, was made in April 1982, not to designate any of the islands as wilderness areas.

Copies of the 3-page summary of the Wilderness Review are available from the Tuscaloosa Office, at the address given above. Supporting documents are available for inspection at the same location.

Decisions Regarding Areas of Critical Environmental Concern

During the planning process, all public domain tracts in the three-county area, with the exception of the 30-acre tract in southeast Lee County, were nominated for designation as Areas of Critical Environmental Concern (ACECs). However, professional review of the tracts in light of the ACEC criteria led to the decision not to recommend them for designation. Also contributing to the decisions was the development of a management mode that will protect the areas without the necessity of ACEC designation.

45-Day Comment Period and Public Meeting

A 45-day public comment period on the draft *Sanibel/Pine Island Sound Plan* and the wilderness decisions begins today and closes June 28, 1982. Comments should be addressed to Robert Todd, Manager, Tuscaloosa Office, Bureau of Land Management, 518 19th Avenue, Tuscaloosa, Alabama 35401.

Anyone wishing to comment upon or discuss any aspect of the draft plan is invited to a public meeting from 3:00 p.m. to 6:00 p.m., EDT, May 28, 1982, in the auditorium at the Edison Community College, College Parkway, Fort Myers, Florida.

For further details or clarification regarding the planning process in the three-county area, contact Ed Roberson, Planner, at the Tuscaloosa Office.

Denise P. Meridith,

Acting Eastern States Director.

[FR Doc. 82-13066 Filed 5-12-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial Number: A 17000–H (Partial)]

Arizona; Classification of Public Lands For State Indemnity Selection

1. The Arizona State Land Department has filed a petition for classification and application to acquire the lands described in Paragraph 5 below, under the provisions of the Act of June 20, 1910 (36 Stat. 557), as amended, in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. This application has been assigned the serial number A 17000–H (partial).

2. Bureau of Land Management will examine these lands for evidence of prior valid rights or other statutory constraints that would bar transfer. Those lands found suitable for transfer will be held to be classified July 12, 1982. Classification is pursuant to Title 43 Code of Federal Regulations, Subpart 2400 and Section 7 of the Act of June 28, 1934.

3. Information concerning these lands and the proposed transfer to the State of Arizona may be obtained from the District Manager, Phoenix District Office, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona 85017, (602) 241–2854.

4. For a period of 60 days from the date of publication of this Notice in the **Federal Register**, all persons who wish to submit comments on the above classification may present their views in writing for consideration to the Phoenix District Manager, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona 85017. Any adverse comments will be evaluated by the Authorized Officer who will issue a notice of determination to proceed with, modify, or cancel the action. In the absence of any action by the Authorized Officer, this classification action will become the final determination to proceed with, modify, or cancel the action. In the absence of any action by the Authorized Officer, this classification action will become the final determination of the Department of Interior. As provided by Title 43 Code Federal Regulations Subpart 2450.4C a public hearing will be scheduled by the State Director if he determines that sufficient public interest exists to warrant the time and expense of a hearing.

5. The lands included in this classification are located in Gila, Maricopa, and Pinal Counties, Arizona and are described as follows: (footnotes correspond to numbered authorized users or applicants listed in Paragraph 6).

Application A 17000–H (Partial)

Gila and Salt River Meridian, Arizona

T. 1 N., R. 8 E.
Sec. 14: NE¼; G21,2,3.
Total: Approximately 160.00 ± acres.
T. 1 N., R. 15½ E.
Sec. 23: NE¼NW¼; [13]
Sec. 24: SW¼NW¼; [4,3]
Sec. 25: NE¼NE¼, S½NW¼; [13,18,19,20]
Sec. 26: NW¼NE¼, S½NE¼; SE¼; [4,5,13,18,21,22]
Sec. 27: SE¼NE¼, NE¼SE¼; [4,13]
Sec. 35: E½, E½W½SE¼SW¼, E½SE¼SW¼; [4,5,6,21,24]
Total: Approximately 910.00 ± acres.
T. 1 N., R. 16 E.

Sec. 7: Lots 1, 2, NE¼, E½W½; [14]
Sec. 8: Lot 1; [14]
Sec. 18: Lot 1; [14]
Sec. 30: Lots 1–4 incl., NW¼, W½SW¼; [13,19,20,24,25]
Sec. 31: Lots 1–4 incl., W½W½; [13,20,24].
Total: Approximately 1073.46 ± acres.
T. 5 N., R. 1 E.
Sec. 28: E½; [7,8,9,16]
Sec. 33: N½NE¼; [7,8,9,16,27]
Sec. 34: S½NE¼, W½NW¼, SE¼NW¼, S½; [8,16,26,27].
Total: Approximately 920.00 ± acres.
T. 5 N., R. 3 E.
Sec. 1: SE¼NE¼, SE¼NW¼.
Total: Approximately 80.00 ± acres.
T. 5 N., R. 4 E.
Sec. 6: Lots 6, 7, SW¼NE¼, E½SW¼.
Sec. 7: Lot 1.[10]
Total: Approximately 199.89 ± acres.
T. 6 N., R. 3 E.
Sec. 35: Lots 5–13 incl., 30–36 incl.,W½NE¼NW¼NE¼, NW¼NW¼NE¼,W½NE¼NE¼NW¼, E½NW¼NE¼NW¼, E½SE¼NE¼NW¼, NE¼SE¼NW¼, E½NW¼SE¼NW¼, E½SE¼SE¼NW¼; [11,17].
Total: Approximately 128.88 ± acres.
T. 6 N., R. 4 E.
Sec. 7: Lot 2, SE¼NW¼.
Total: Approximately 82.45 ± acres.
T. 11 N., R. 2 E.
Sec. 23: Lots 11, 12, 13, 20, 32; [12,15].
Total: Approximately 22.12 ± acres.
The total acreage described above for Application A 17000–H (partial) is approximately 3,576.80 acres.

6. The following listed corporations and individuals are holders of or applicants for leases, permits and/or rights-of-way on the public lands described in Paragraph 5 above:

Rights-of-Way

[1] Salt River Project, P.O. Box 1980, Phoenix, AZ 85001—A 13735; A 13888.
[2] Arizona Water Company, P.O. Box 5396, Phoenix, AZ 85010—A 14706.
[3] Pinal County Board of Supervisors, P.O. Box 827, Florence, AZ 85232—A 17301 (R.S. 2477).
[4] Arizona Department of Transportation, 205 S. 17th Avenue, Phoenix, AZ 85007—PHX 084055; AR 07125; AR 07126; AR 015811; A 5436; A 9380.
[5] Thomas M. Thompson, Box 307, Globe, AZ 85501—A 9381.
[6] City of Globe, 150 W. Cedar, Globe, AZ 85501—AR 032105.
[7] Arizona Public Service, R/W Department, P.O. Box 21666, Phoenix, AZ 85036—AR 024000.
[8] El Paso Gas Company, P.O. Box 1492, El Paso, TX 79978—AR 010913.
[9] Maricopa County Municipal Water Conservation District No. 1, P.O. Box 730, Peoria, AZ 85345—PHX 086584.
[10] Maricopa County Board of Supervisors, 111 South 3rd Avenue, Phoenix, AZ 85003—A 16383.
[11] Mountain States Telephone, R/W Dept., 3033 N. 3rd Street, Room 806–A, Phoenix, AZ 85012—A 11516.
[12] Earnest Bensch, Jr., John Bensch, Paul R. and J. S. Riggs, c/o Lavour & Quail Law Offices, 843 Miller Valley Road, Prescott, AZ 86302—PHX 079636.

Grazing Lessees

[13] Donald H. Harrington, P.O. Drawer AB, Miami, AZ 85539.
[14] Geneva Mounce, P.O. Box 335, Globe, AZ 85501.
[15] Henry Cordes, Star Route, Mayer, AZ 85333.
[16] Sheep Springs Sheep Co., c/o Robert Carlock, 11 W. Jefferson, Room 203, Phoenix, AZ 85003.
[17] Willis E. Harper, 9137 Gregg Drive, Chandler, AZ 85224.

Range Improvements

[18] No. 4198; Fence; Donald Harrington.
[19] No. 4203; Pipeline; Donald Harrington.
[20] No. 4305; Fence; Donald Harrington.
[21] No. 4196; Fence; Donald Harrington.
[22] No. 4202; Pipeline; Donald Harrington.
[23] No. 4974; Reservoir; Donald Harrington.
[24] No. 4200; Pipeline; Donald Harrington.
[25] No. 1658; Tank; Donald Harrington.
[26] No. 0343; Fence; Sheep Springs Sheep Company.

Oil and Gas Leases

[27] American Quazar Petroleum, 1700 Broadway, Suite 707, Denver, CO 80290—A 12801; A 12803.

7. Rights-of-way granted by BLM will transfer with the land. Oil and gas leases will remain in effect under the terms and conditions of the lease. State Law and Land Department procedures (R 12–5–154 D Administrative Rules and Regulations, Arizona State Land Department) provide for the offering to holders of BLM grazing permits the first right to lease lands that are transferred to the State. This constitutes official notice to grazing lessees that their Bureau of Land Management leases will be terminated in part upon transfer of the land to the State of Arizona.

Dated: May 4, 1982.

Harold Ramsbacher,

Acting State Director.

[FR Doc. 82-13031 Filed 5-12-82; 8:45 am]

BILLING CODE 4310-84-M

[PHX-081765 etc.]

Arizona; Order Providing for Opening of Public Lands

1. In an exchange of lands made under the provisions of Section 8 of the Act of June 28, 1934 (48 Stat. 1272, as amended, 43 U.S.C. 315g), the following lands have been reconveyed to the United States under the serial numbers listed below:

PHX–081765: *T. 5 N., R. 3E.*, GSR Mer., Arizona Section 1, SE¼NE¼ and SE¼NW¼.

AR–07974: *T. 1 N., R. 15½ E.*, Section 35, W½NE¼.

The areas described aggregate 160 acres in Gila and Maricopa Counties.

2. All of the lands described in Paragraph 1 have been classified for State Selection purposes. Subject to valid existing rights and the provisions of applicable law, effective upon this publication, the lands described in Paragraph 1 are open to application for State Selection under Sections 2275 and 2276, Revisd Statutes, as amended 43 U.S.C. 851 and 852. The mineral estate shall remain closed to location and entry under the mining laws (Ch. 2, Title 30 U.S.C.), but shall be open to mineral leasing.

3. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–3706).

Mildred C. Kozlow,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-13036 Filed 5-12-82; 8:45 am]

BILLING CODE 4310-84-M

[A-6451; AR-09229]

Arizona; Proposed Continuation of Withdrawals and Opportunity for Public Hearing; Correction

May 3 1982.

In FR Doc. 80–35406 appearing at page 75330 in the issue of November 14, 1980, make the following change:

Under Serial No. A–6451, 2nd column, insert the following legal description after the 12th line under T. 41 N., R. 14 W., "sec. 26, N½NE¼, NW¼."

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operation.

[FR Doc. 82-13038 Filed 5-12-82; 8:45 am]

BILLING CODE 4310-84-M

California; Wilderness Recommendations for Management Framework Plan Amendments in the Caliente, Folsom, and Hollister Resource Areas, Bakersfield District; Public Hearing

May 21, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: In accordance with the Wilderness Act of 1964 (78 Stat. 891), notice is hereby given of a public hearing to gather information and

advice from the public on the wilderness suitability and nonsuitability recommendations for the Central California Wilderness Study Areas (WSAs).

SUMMARY: A Draft Environmental Impact Statement (DEIS) has been prepared on the wilderness suitability and nonsuitability recommendations for ten WSAs in the Caliente, Hollister, and Folsom Resource Areas, Bakersfield District. The ten WSAs include Merced River (CA–040–203), Panoche Hills North (CA–040–301A), Panoche Hills South (CA–040–301B), Pinnacles Wilderness Contiguous (CA–040–303), Ventana Wilderness Contiguous (CA–040–308), Caliente Mountain (CA–010–042), Sheep Ridge (CA–010–022), Milk Ranch/Case Mountain (CA–010–023), Owens Peak (CA–010–026), and Piute-Cypress (CA–010–046) WSAs, totalling 95,049 acres.

DATE: The hearing will be held on Tuesday, June 22, 1982, from 3:00 to 5:00 and from 7:00 to 9:00 p.m. in the State Building, State Auditorium, 2550 Mariposa Mall, Rm. 1036, Fresno, California 93721.

FOR FURTHER INFORMATION CONTACT: Garold W. Lamb, Acting District Manager, Bakersfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, California 93301.

SUPPLEMENTARY INFORMATION: Notice of this planning activity was given in **Federal Register** on February 19, 1982 (47 FR 7505). The DEIS has been published under the title, *Central California Study Area Draft Environmental Impact Statement,* and is available for review at the following locations:

Bakersfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, California 93301, (805) 861–4191

Caliente Resource Area, 1430 Truxtun Avenue, Room 456, Bakersfield, California 93301, (805) 861–4236

Folsom Resource Area, 63 Natoma, Folsom, California 95630, (916) 985–4474

Hollister Resource Area, 402 Hill Street, Hollister, California 95023, (408) 637–8183

Comments on the DEIS and wilderness suitability and nonsuitably recommendations must be received by July 22, 1982, in order to receive consideration in the Final EIS.

Chuck Hopson,

Acting District Manager.

[FR Doc. 82–13034 Filed 5–12–82; 8:45 am]

BILLING CODE 4310–84–M

[C–2899, C–2901, C–2902, C–2904, C–2905, C–2906, C–10844, C–10845]

Colorado: Termination of Listed Classifications of Public Lands for Public Sale Under the Act of September 19, 1964, as Amended, and Exchange Under Sec. 8(b) of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272), as Amended

1. Pursuant to the authority delegated by Bureau Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, the Bureau of Land Management Classification of Public Lands for Disposal described in the **Federal Register** notices summarized as follows are hereby terminated.

C–2899, 34 FR 11428 (July 10, 1969), containing 77.80 acres in Sedgwick County

C–2901, 34 FR 11428 (July 10, 1969), containing 676 acres in Logan County

C–2902, 34 FR 11428 (July 10, 1969), containing 520 acres in Morgan County

C–2904, 33 FR 14980 (October 5, 1968), containing 2,417.27 acres in Larimer County

C–2905, 34 FR 11428 (July 10, 1969), containing 377.31 acres in Yuma County

C–2906, 34 FR 11428 (July 10, 1969), containing 243.45 acres in Washington County

C–10844, 35 FR 13316–13317 (August 20, 1970), 35 FR 14332 (September 12, 1970), containing 4,728.16 acres under the Public Sale Act and containing 10,580.03 acres under the Taylor Grazing Act in Routt County

C–10845, 35 FR (August 20, 1970), containing 280 acres in Mesa County.

2. All listed classification orders are hereby revoked as far as they pertain to public sale lands and exchange lands only.

3. At 10 a.m. on June 15, 1982, the listed public lands shall be open to operation of the public land laws subject to valid existing rights, provisions of existing withdrawals, and the requirements of applicable law. The lands have been and continue to be open to the United States mining laws and the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Lands and General Mining Law Section, Branch of Lands and Minerals Operations, Bureau of Land Management, 1037—20th Street, Denver, Colorado 80202.

George C. Francis,

State Director.

[FR Doc. 82–13032 Filed 5–12–82; 8:45 am]

BILLING CODE 4310–84–M

[M 49690]

Montana; Conveyance

May 5, 1982.

Notice is hereby given that pursuant to Sec. 206 of the Act of October 21, 1976 (43 U.S.C. 1716), and the regulations in 43 CFR 2200, the following described land in Blaine County was conveyed to Thomas M. Inman:

Principal Meridian, Montana.

T. 37 N., R. 23 E.,
Sec. 22, All.
T. 37 N., R. 26 E.,
Sec. 9, S½S½;
Sec. 10, W½SW¼ and E½SE¼; and
Sec. 11, W½SW¼.

Aggregating 1,040 acres.

A warranty deed issued to the United States for the following land which becomes public land subject to administration by the Bureau of Land Management, Montana State Office:

Principal Meridian, Montana.

T. 33 N., R. 21 E.,
Sec. 2, Lots 2, 3, and 4.
T. 34 N., R. 21 E.,
Sec. 34, E½ and SW¼; and
Sec. 35, W½.

Aggregating 918.59 acres.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–13033 Filed 5–12–82; 8:45 am]

BILLING CODE 4310–84–M

Socorro District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 94–579, that a meeting will be held on Thursday, June 3, 1982.

The meeting will begin at 9:00 a.m., in the Hospitality Room of the First State Bank at 103 Manzanares Avenue, NE., Socorro, New Mexico.

The agenda for the meeting will include:

(1) Review of minutes of February 9, 1982 meeting.

(2) Comments and recommendations on proposed Allotment Management plans.

(3) Proposed 1983 range improvement projects.

(4) Update on the West Socorro Environmental Impace Statement.

(5) Advisory Board elections.

(6) Future meetings, topics and schedules.

The meeting is open to the public. Interested persons may make oral statements to the board between 11:00

and 12:00 a.m., or file written statements for the board's consideration.

Edward C. Roberts,

Acting District Manager.

May 4, 1982.

[FR Doc 82-13035 Filed 5-12-82; 8:45 am]

BILLING CODE 4310-84-M

[M-053809 (SD)]

South Dakota; Order Providing for Opening of Public Lands

May 4, 1982.

1. The official Notice of Filing of Plat of Survey for the following described land was published in the **Federal Register**, September 24, 1964; however, the land was never opened to the public land laws:

Fifth Principal Meridian

T. 122 N., R. 46 W.,
Sec. 31, Lot 5.
Containing 0.59 acres.

2. Pursuant to the authority contained in Bureau Order 701 of July 23, 1964, as amended, we propose to open this land for the State selection program and it will not be open to other appropriation under the public land laws.

3. Inquiries concerning the land should be addressed to the Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Edgar D. Stark,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc 82-13037 Filed 5-12-82; 8:45 am]

BILLING CODE 4310-84-M

[W-74730]

Wyoming; Proposed Withdrawal—Amendment

On May 4, 1982, a petition was approved allowing the Bureau of Land Management to add the following described lands to their proposed withdrawal application W-74730, published in the **Federal Register**, May 14, 1981, Vol. 46, No. 93 on page 26704.

T. 58 N., R. 94 W.,
Sec. 20, lots 3, 4, 5, and 6;
Sec. 28, S½SE¼.
Containing 178.75 acres in Bighorn County, Wyoming.

The lands described in section 20 are an in addition to the proposed Horsethief Cave protective withdrawal, and the lands in section 28 are for the protection of the recreational, scientific and educational values of Natural Trap Cave.

For a period of two years from May 14, 1981, which was the date of the **Federal Register** publication of the proposed withdrawal, the above lands will be segregated from the operation of the general public land laws including the mining laws, but not the mineral leasing laws, subject to valid existing rights, unless the application is denied or cancelled, or the withdrawal is approved prior to that date.

No licenses, permits, cooperative agreements or discretionary land use authorizations of a temporary nature will be allowed on the lands without the approval of an authorized officer of the Bureau of Land Management during the segregation period of the proposed withdrawal.

All communications in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003.

F. William Eikenberry,

Associate State Director.

May 4, 1982.

[FR Doc. 82-13039 Filed 5-12-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

ACTION: Notice of availability of environmental documents prepared for OCS mineral exploration proposals on the Gulf of Mexico OCS.

SUMMARY: The MMS, in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EAs) and findings of no significant impact (FONSIs), prepared by the MMS for the following oil and gas exploration activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which environmental documents were prepared by the Gulf of Mexico OCS Region in the 3-month period preceding this Notice.

Activity/Operator	Location	FONSI Date
Gulf Oil Exploration and Production Company, EA No. 502, Plan Control No. N-0860.	St. Petersburg Area, Block 753 (68 mi. southwest of Egmont Key, Florida).	Feb. 3, 1982.
Mobil Oil Exploration and Producing Southeast Inc., EA No. 503, Plan Control Nos. N-0865 and N-0866.	Pensacola Area, Blocks 971 and 974 (17 mi. from the Florida coast).	Feb. 5, 1982.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Deputy Minerals Manager, Offshore Operations Support, Gulf of Mexico OCS Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, 504/837-4720.

SUPPLEMENTARY INFORMATION: The Minerals Management Service prepares EAs and FONSIs for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS.

The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA Sec. 102(2)(C). A FONSI is prepared in those instances where the MMS finds that apporoval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-13040 Filed 5-12-82; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 016, Block 31, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service

is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Date: May 6, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–13041 Filed 5–12–82; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Shell Offshore Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4424, Block 221, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Date: May 6, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–13042 Filed 5–12–82; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Texaco U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Texaco U.S.A., Unit Operator of the Eugene Island Block 205 Federal Unit Agreement No. 14–08–0001–8654, submitted on May 3, 1982, a proposed annual plan of development/production describing the activities it proposes to conduct on the Eugene Island Block 205 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 5, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–13043 Filed 5–12–82; 8:45 am]

BILLING CODE 4310–31–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931, 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further

subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79754 By decision of April 28, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to LARRY E. BAARTS, of Northrop, MN, of Permit Nos. MC–148797 (Sub-Nos. 3X and 4), issued to RICHARD L. WHITE, d/b/a RICHARD L. WHITE TRUCKING, of Fairmont, MN, which authorize the transportation of (1) *chemicals and related products,* between points in the U.S., under continuing contract(s) with Rosen Livestock, Inc., of Fairmont, MN, and (3) *food and related products,* between points in the U.S., under continuing contract(s) with Rosen Livestock, Inc., of Fairmont, MN, and (2) *food and related products,* between points in the U.S., under continuing contract(s) with Armour & Co., of Phoenix, AZ, and Fairmont Refrigerated Services Company, of Fairmont, MN. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108.

Notes.—TA has not been filed. Transferee is not a carrier.

MC–FC–79759. By decision of April 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 3 approved the transfer to Lara Trucking, Inc., of Dover, DE of Certificate Nos. MC–141124 (Sub Nos. 36, 38, 51, 52, and 58X), issued, respectively, September 1, 1981, August 12, 1980, September 2, 1981, June 19, 1981, and November 2, 1981, (subsequently corrected), to Evangelist Commercial Corporation of Wilmington, DE, authorizing the transportation of (1) containers, container ends, and closures and commodities manufactured of distributed by manufacturers or distributors of containers, moving in mixed loads with containers, and materials, equipment and supplies between points in the United States, (2) zinc and zinc articles (except in bulk) from the facilities of St. Joe Zinc Company at or near Johnstown, PA to points in the United States and materials equipment, and supplies on return; (3) such commodities as are dealt in or used by manufacturers and converters of paper and paper products (except in bulk) between 10 points in 14 States, on the one hand, and, on the other, points in the United States; (4) commodities as are dealt in or used by retail department stores (except in bulk) (A) between points in Hudson County, NJ, and New York, NY, on the one hand, and, on the other, points in the United States, and (B) between 27 points in 20 States, on the one hand, and, on the other, points in the United States; and (5) paper and paper products and materials equipment and supplies used in their manufacture and distribution adhesives, floor mats, and runners, commodities dealt in or used by manufacturers or distributors of foodstuffs, paper and related products between specified points on the one hand, and, on the other, points in various northeastern states or in some instances in the United States. Representative is: James W. Muldoon, 50 West Broad Street, Columbus, Ohio 43215.

MC–FC.79746. By decision of April 28, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to JUNG TRUCH SERVICE, INC. of Mascoutah, IL of Certificate No. MC–38984 issued to LAQUET FREIGHT SERVICE, INC. of Mascoutah, IL authorizing: General commodities (with usual exceptions) over regulatories between St. Louis, MO, and St. Rose, New Badew and St. Libory, IL, serving named intermediate and off-route points.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–12995 Filed 5–12–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

Correction

In FR Doc. 82–9771, appearing at page 15658, in the issue of Monday, April 12, 1982, correct MC 152420 (Sub-1–3TA), on page 15659, first paragraph, line 6, by changing "AZ" to read "AL".

BILLING CODE 1505–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–83

Decided: May 3, 1982.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC–161611, filed April 21, 1982. Applicant: JUSTA TRUCK TRUCKING, c/o Kent Franzen, Route 2, Box 225, Lexington, NE 68850. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402)–397–9900. Transporting *food and other edible products and by-products* intended for human consumption (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditions* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161681, filed April 26, 1982. Applicant: GEO. S. BUSH & CO., INC., 520 NW Irving Street, Portland, OR 97209. Representative: Donald L. Patrick (same address as applicant), (503) 228–6501. As a broker of *general commodities* (except household goods), between points in OR, WA, ID, MT, WY, NV, and CA.

MC 161720, filed April 28, 1982. Applicant: MELVIN H. HILL AND CONRAD TORRES, d.b.a. NATIONWIDE DISTRIBUTION SYSTEMS, 8541 Mission Blvd., Riverside, CA 92509. Representative: Conrad Torres (same address as applicant), (714) 883–4349. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP1–85

Decided: May 6, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating in part.)

MC 146851, filed April 20, 1982. Applicant: AL–WAYS AIR FREIGHT, INC., 830 Supreme Drive, Bensenville, IL 60206. Representative: Daniel C. Sullivan, 180 N. Michigan, Suite 1700, Chicago, IL 6060, (312) 263–1600. As a *broker* of *general commodities* (except used household goods), between points in the U.S. (except AK and HI).

MC 147461 (Sub-8), filed April 23, 1982. Applicant: FEDERAL ARMORED EXPRESS, INC., 7675 Canton Center Drive, Baltimore, MD 21224. Representative: Eugene T. Liipfert, Suite 1100, 1660 L Street, NW., Washington, DC 20036, (202) 452–7422. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 152261 (Sub-5), filed April 30, 1982. Applicant: M. W. ETTINGER, INC., 2711 Fairview Ave., North, Roseville, MN. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting, for or on behalf of, the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 156680 (Sub-1), filed April 28, 1982. Applicant: HANKINS LUMBER SALES, INC., P.O. Box 1051, Grenada, MS 38901. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting for or behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 161430 (A), filed April 8, 1982. Applicant: JAMES STEPHEN KEMP, d.b.a. JSK TRUCKING, 301 3rd St., Ballinger, TX 76821. Representative: Elliott J. Kemp, (Same address as applicant), (915) 365–3489. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161751, filed April 30, 1982. Applicant: PHIL SNYDER, d.b.a. RANCH TRANSPORTATION, Highway 169 South, Shakopee, MN 55379. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–103

Decided: May 5, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 140858 (Sub-3), filed April 26, 1982. Applicant: SOS TRANSPORT, INC., Lawrence St. and Pattison Ave., Philadelphia, PA 19148. Representative: Glenn M. Silverman, (Same address as applicant), (215) 336–6200. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 142059 (Sub-187), filed April 22, 1982. Applicant: CARDINAL TRANSPORT, INC., 1230 Northern Illinois Drive, Channahon, IL 60410. Representative: Jack Riley (Same address as applicant.), (815) 729–3808. Transporting *general commodities* (except household goods and commodities in bulk), between Blanche and Blue Pond, AL, Cartago, Coso, Inyokern, Little Lake, Lone Pine, Olancha, Pencilwood, and Swanston, CA, Dundee, Lake Hamilton, and Waverly, FL, Chelsea and Menlo, GA, Corral and Hill City, ID, Addison, Grand Tower, Mooseheart, and Sand Ridge, IL, LaOtto, IN, Orange City, IA, Viola and Wier, KS, Benton and Hardin, KY, Amesbury and Salisbury, MA, Alden, Bellaire, Bendon, Central Lake, Chief Lake, Ellsworth, Interlochen, Kaleva, Norwalk, and Rapid City, MI, Key West, MN, Fairfax and Tarkio, MO, Huntley and Ragan, NE, Pactolus, Stokes, and Whichard, NC, Dunseith, ND, Ehrhardt and Lodge, SC, and Ralston and Terrell, TN, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier service for completely abandoned rail service.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–12996 Filed 5–12–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose and application must follow the rules under 49 CFR 110.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and

that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliace requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted nmay duplicate and applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–82

Decided: May 3, 1982.

By the Commission, Review Board No. 1, Members of Parker, Chandler, and Fortier.

MC 3581 (Sub-35), filed April 29, 1982. Applicant: THE MOTOR CONVOY, INC., Suite 107, 21755 Parklake Drive, N.E., Atlanta, GA 30345. Representative: Paul M. Daniell, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree St., N.E., Atlanta, GA 30303 (404) 522–2322. Transportating *motor vehicles*, between points in the U.S. (except AK and HI), under continuing contract(s) with Volvo of America Corporation, or Rockleigh, NJ.

MC 41951 (Sub-55), filed April 27, 1982. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Representative: Daniel B. Johnson, 4304 East-West Highway, Bethesda, MD 20814, (301) 654–2240. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses, between those points in the U.S. in and east of ND, SD, NE, KS, OK, AND TX.

MC 68100 (Sub-50), filed April 29, 1982. Applicant: D. P. BONHAM TRANSFER, INC., P.O. Drawer G, Bartlesville, OK. Representative: Larry E. Gregg, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, (913)–234–0565. Transporting *Mecer commodities*, between points in AL, CO, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in AL, LA, and MS.

MC 108460, filed April 27, 1982. Applicant: PETROLEUM CARRIERS COMPANY, P.O. Box 762, Sioux Falls, SD 57101. Representative: Gary Mundhenke (same address as applicant), (605) 336–1980. Transporting *commodities in bulk*, between points in ND, SD, NE, IA, MN, MO, KS, WI, WY, CO, MT, IL, IN, OK, AR, OH, TX, LA, and NM.

MC 135861 (Sub-103) (Republication), filed March 18, 1982, previously noticed in the **Federal Register** issue of April 8, 1982. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Tarkett, Inc., of Parsippany, NJ, Anatec Image, Inc., and Ozalid Corporation, both of Binghampton, NY.

Note.—The purpose of this republication is to indicate the correct contracting shipper as Ozalid Corporation in lieu of Azalid Corporation.

MC 149581 (Sub-3), filed April 29, 1982. Applicant: LUJO TRUCKING CO., INC., 121 Braley Rd., East Freetown, MA 02717. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617)–742–3530. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, MA, and RI, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *textile mill products*, between points in NY and NC, on the one hand, and, on the other, points in AL, GA, MS, SC, and TN.

MC 151641 (Sub-5), filed April 12, 1982. Applicant: WILLIAM E. JOHNSON d.b.a. WILLIAM E. JOHNSON TRUCKING CO., 11211 Sherman Avenue, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses, and department and variety stores, between points in TX, OK, AR, KS, NM, CO, CA, AZ, and UT.

MC 154501, filed April 29, 1982. Applicant: DREWS BROS. SHAVING & SAWDUST CO., 2014 W. Hubbard St., Chicago, IL 60612. Representative: Donald S. Mullins, 1033 Graceland Ave. Des Plaines, IL 60016, (312)–298–1094 Transporting *lumber and wood products*, between points in Marinette County, WI, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MO, and OH.

MC 156510 (Sub-1), filed April 29, 1982. Applicant: J LINE, INC., Gibson Hill Rd., P.O. Box 21, Greene, RI 02827. Representative: Charles E. Werchadlo, (same address as applicant), (401)–397–5037. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, MA, and RI.

MC 156900 (Sub-1), filed April 26, 1982. Applicant: ARCADIA TRANSPORTATION COMPANY, 350 Madison Street, Arcadia, WI 54612. Representative: Edward H. Instenes, 128½ Plaza East, Winona, MN 55987. Transporting *pulp, paper and related products, and waste or scrape materials* not identified by industry producing, between points in McCurtain County, OK, on the one hand, and, on the other, points in Linn County, IA.

MC 158381 (Sub-4), filed April 29, 1982. Applicant: YELLOW LAKE, INC., PO Box 1364, Auburndale, FL 33823. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701–1378, (305) 869–5936. Transporting *such commodities* as are dealt in or used in the manufacture, distribution and installation of air filtration products, between points in the U.S. (except AK and HI), under continuing contract(s) with Precisionaire, Inc., of St. Petersburg, FL.

MC 161550, filed April 16, 1982. Applicant: CAPREN PROPERTIES, INC., d.b.a. RICHARD TOURS, 809 Coronado, Lee's Summit, MO 64063. Representative: Richard E. Nieweg, (Same address as applicant), (816) 524–3962. As a broker at Lee's Summit, MO, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, between Kansas City, MO, and points in Jackson County, MO, and Johnson County, KS,

on the one hand, and, on the other, points in the U.S. (including AK and HI).

MC 161691, filed April 27, 1982. Applicant: HANNAH TOURS, INC. 852 Meade, PO Box 131, West Point, MS 39773. Representative: Charlie M. Hannah, (Same address as applicant), (601) 494–5038. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, between points in MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161731, filed April 29, 1982. Applicant: ANTHONY M. BRIDA, R.D. #1, Box 415, Glassboro, NJ 08028. Representative: Anthony M. Brida, (same address as applicant), (609)–881–1700. Transporting *forklifts,* between points in the U.S., under continuing contract(s) with T.C.M. America, Inc., of Bridgeport, NJ.

Volume No. OP1–84

Decided: May 6, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating in part.)

MC 16050 (Sub-6), filed April 21, 1982. Applicant: A & P SUPER MOVERS & STORAGE, INC., 25–56 31 St., Astoria, NY 11102. Representative: Thomas D. McCort, (same address as applicant), (212) 726–6222. Transporting *household goods and furniture and fixtures,* between points in the U.S.

MC 123980 (Sub-9), filed April 30, 1982. Applicant: MANDUS R. OLSON, 2148 Bunker Lake Boulevard N.W., Anoka, MN 55303. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102, (612) 227–7731. Transporting *metal products, leather and leather products, rubber and plastic products, and pulp, paper and related products,* between points in the U.S. (except AK and HI).

MC 136071 (Sub-3), filed May 3, 1982. Applicant: KISSNER TRANSPORT, LTD., 529 12th Ave. East, Regina, Saskatchewan, CN S4P 3A1. Representative: William L. Libby, 5200 Willson Rd., Suite 307, Edina, MN 55424, (612)–927–8855. Transporting *fertilizers,* between ports of entry on the international boundry line between the U.S. and Canada in MT, ND and MN, on the one hand, and, on the other, points in MT, MN, ND, SD, IA, NE and WI.

MC 139741 (Sub-3), filed April 29, 1982. Applicant: D & D DISPOSAL SERVICES LIMITED, Spring Creek Road & Thompson Ave., Smithville, Ontario, Canada LOR 2A0. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court St., Buffalo, NY 14202, (716) 853–0200. Transporting *hazardous materials,* between points in the U.S., under continuing contract(s) with Chemical Waste Management Limited, of Smithville, Ontario, Canada.

MC 144630 (Sub-67), filed April 30, 1982. Applicant: STOOPS EXPRESS, INC., P.O. Box 287, Anderson, IN 46015. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317)–846–6655. Transporting *automobile parts and equipment,* between points in the U.S., under continuing contract(s) with General Motors Corporation, of Troy, MI.

MC 145481 (Sub-37), filed April 30, 1982. Applicant: HOOSIER TRANSPORTATION SYSTEM, INC., 501 Sam Ralston Road, Lebanon, IN 46052. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202, (303) 892–6700. Transporting *pulp, paper and related products, plastic products, and metal products,* between the facilities used by Continental Forest Industries, Inc., at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148560 (Sub-9), filed April 29, 1982. Applicant: GOLD STAR, INC., 130 Davidson Ave., Somerset, NJ 08873. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Bettinger West, Inc., of Denver, CO.

MC 151060 (Sub-3), filed April 30, 1982. Applicant: DIEHL LUMBER TRANSPORTATION CO., 1885 S. 900 W., Salt Lake City, UT 84104. Representative: Irene Warr, 311 S. State St. Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *mobile homes,* between points in the U.S. (except AK and HI), under continuing contract(s) with Interstate Homes, Inc., of North Salt Lake, UT.

MC 152730 (Sub-17), filed April 30, 1982. Applicant: DEPENDABLE TRANSIT, INC., P.O. Box 21, Hartford City, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *plastic articles,* between the facilities of Amoco Container Company, at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159610 (Sub-1), filed April 30, 1982. Applicant: C. W. BOONE d.b.a. T. WOLF CO., Route 3, Dallas, GA 30132. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404) 477–1525. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Fortune Manufacturing Corp., of Paramount, CA.

MC 160741, filed April 30, 1982. Applicant: ASA FREIGHT SYSTEMS, INC., 45 West 6th St., Oshkosh, WI 54901. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except classes A and B explosives and household goods), between Chicago, IL, Milwaukee, WI, and points in Brown, Calumet, Dodge, Fond du Lac, Green Lake, Marinette, Oconto, Outagamie, Washington, Waupaca, Waushara, and Winnebago Counties, WI.

MC 160790, filed April 30, 1982. Applicant: C & M EXPRESS, INC., 766 W. Broadway, Gardner, MA. Representative: James F. Martin, Jr., 8 W. Morse Road, Bellingham, MA 02019, (617) 966–2093. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Mead Corp., Inc., Mead Containers Div., of Gardner, MA.

MC 160820, filed May 3, 1982. Applicant: C. D. HAUGEN, Route #7, Box 358, Bemidji, MN 56601. Representative: Kip B. H. Erickson, 15 Broadway, Suite 502, Fargo, ND 58102, (701)–235–4487. Transporting *lumber and wood products,* between points in MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161170 (Sub-2), filed April 30, 1982. Applicant: TRAFCON SERVICES, INC., 2310 Orange Ave., N.E., Roanoke, VA 24012. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Grossman's Division of Evans Products, of Braintree, MA.

MC 161430 (B), filed April 8, 1982. Applicant: JAMES STEPHEN KEMP, d.b.a. JSK TRUCKING, 301 3rd St., Ballinger, TX 76821. Representative: Elliott J. Kemp, (same address as applicant) (915) 365–3489. Transporting (1) *textile mill products,* under continuing contract(s) with Kent Manufacturing Co.; (2) *building materials and metal products,* under continuing contract(s) with Mueller Supply Co.; and (3) *wool and mohair,*

under continuing contract(s) with Ballinger Wool and Mohair, all of Ballinger, TX, between points in the U.S. (except AK and HI).

MC 161591, filed April 28, 1982. Applicant: WILLIAM B. AKERS, d.b.a. B.A. HAULING, 653 Ramada Road, Vinton, VA 24179. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting *chemicals and related products and machinery,* between Roanoke, VA, and points in Roanoke County, VA, on the one hand, and, on the other, points in AL, IL, IN, KY, OH, PA, TN, VA, and WV.

MC 161660, filed April 26, 1982. Applicant: DiRENZO & SONS COMPANY, 56 Rochester St., Westbrook, ME 04092. Representative: Medio DiRenzo, (same address as applicant), (207) 854–5562. Transporting (1) *machinery,* and (2) *machinery and aerial work platforms,* between points in Cumberland County, ME, on the one hand, and, on the other, points in CT, RI, MA, NH, and VT, under continuing contract(s) in (1) above with Aerial Lifts of N.E., Inc., of Portland, ME, and Metco, of South Portland, ME, and in (2) above with C. R. Wood Corp., of Westbrook, ME.

MC 161750, filed April 30, 1982. Applicant: DUPONT TRUCKING, INC., 624 South Roberts St., Quincy, FL 32351. Representative: Nataniel Dupont, (same address as applicant), (904)–627–7283. Transporting *clay,* between points in Grady and Thomas Counties, GA, on the one hand, and, on the other, points in Gadsden County, FL, under continuing contract(s) with Floridin Company, of Quincy, FL.

MC 161770, filed April 30, 1982. Applicant: THE TRAVEL MARKET, INC., 6660 Doubletree Ave., Columbus, OH 43229. Representative: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. As a broker at Columbus, OH, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, between points in the U.S.

Volume, No. OP5–102

Decided: May 5, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 43269 (Sub-76), filed April 23, 1982. Applicant: WELLS CARGO, INC., P.O. Box 1511, Reno, NV 89505. Representative: Royal F. Miller, (Same address as applicant.), (702) 329–0061. Transporting *chemicals and related products* between points in Elko County, NV, on the one hand, and, on the other, points in Valley, Lemhi, and Custer Counties, ID, and Deer Lodge, Madison, and Mineral Counties, MT.

MC 48958 (Sub-229), filed April 28, 1982. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, CO 80216. Representative: Morris G. Cobb, P.O. Box 9050, Amarillo, TX 79189, (806) 374–1641. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with GTE, of San Carlos, CA.

MC 79658 (Sub-18), filed April 23, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills, (Same address as applicant), (812) 424–2222. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Cubic Corporation, of San Diego, CA.

MC 112989 (Sub-159), filed April 27, 1982. Applicant: WEST COAST TRUCK LINES, INC., 8547 Hwy. 99 So., Eugene, OR 97405. Representative: John T. Morgans, (Same address as applicant.). (503) 747–1283. Transporting *food and related products* between San Francisco, CA, and points in Maricopa County, AZ, and Weber County, UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 121608 (Sub-6), filed April 28, 1982. Applicant: ACME DELIVERY SERVICE, INC., 4250 Oneida St., Denver, CO 80216. Representative: Joseph F. Nigro, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264, (303) 861–4028. Transporting *duplicating equipment,* between points in the U.S., under continuing contract(s) with Xerox Corporation of Stamford, CT.

MC 138388 (Sub-14), filed April 28, 1982. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, Box 376, Lowell, WI 53557. Representative: James A. Spiegel, Olde Town Office Bldg., 6333 Odana Rd., Madison, WI 53719 608–273–1003. Transporting *meat and packinghouse products,* between points in Jefferson County, WI, on the one hand, and, on the other, points in IL, IN, IA, ME, MI, MN, MO, NE, NH, NY, ND, OH, PA, SD, and VT.

MC 145359 (Sub-43), filed April 19, 1982. Applicant: THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317–864–6655. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (expect AK and HI), under continuing contract(s) with United Technologies, Inc., Essex Group of Fort Wayne, IN.

MC 145679 (Sub-24), filed April 28, 1982. Applicant: A & A TRANSPORT, INC., P. O. Box 569, Palmer, MA 01069. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *food and related products,* between points in San Bernardino and San Mateo Counties, CA, Lenoir County, NC, Morris County, NJ, and Kent County, RI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146298 (Sub-5), filed April 27, 1982. Applicant: KESS TRANSPORTATION, INC., Box 5091, Cincinnati, OH 45205. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave. N.W., Washington, DC 20005, 202–347–9332. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Hamilton, Butler, Warren, and Clermont Counties, OH, Dearborn County, IN, and Boone, Campbell and Kenton Counties, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *air conditioning and heating equipment,* between points in Effingham County, IL, Middlesex County, NJ, and Frederick County, MD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150878 (Sub-3), filed April 27, 1982. Applicant: DON FRAME TRUCKING, INC., 5485 Route 5, Fredonia, NY 14063. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW, Suite 500, Washington, DC 20006, 202–828–5015. Transporting *dry commodities in bulk,* between points in Niagara, Erie, Chautauqua, and Chattaraugus Counties, NY, and Warren, Crawford, McKean, Erie and Elk Counties, PA.

MC 155078 (Sub-1), filed April 26, 1982. Applicant: WILLIAM E. JONES, d.b.a. RAWHIDE EXPRESS, INC., P.O. Box 9112, Albuquerque, NM 87119. Representative: Joseph Rocca, 3110 Monte Vista NE, Albuquerque, NM 87106, (505) 266–5533. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Albuquerque, NM, on the one hand, and, on the other, those points in NM on and north of Interstate Hwy 40.

MC 155409 (Sub-2), filed April 28, 1982. Applicant: MICHALETZ TRUCKING, INC., 3302 Park Dr.,

Owatonna, MN 55060. Representative: Stanley C. Olsen, Jr., 5200 Wilson Rd., Ste. 307, Edina, MN 55424, (612) 927–8855. Transporting *malt beverages,* between points in Shelby County, TN, on the one hand, and, on the other, points in IL and WI.

MC 156088 (Sub-3), filed April 26, 1982. Applicant: R & S TRUCK LEASING, INC., 1651 Walker Rd., Muskegon, MI 49442. Representative: D. Richard Black, Jr., 285 James St., P.O. Box 638C, Holland, MI 49423, (616) 399–3400. Transporting *rubber bands* between Alliance, OH on the one hand, and, on the other, points in AZ, NV, CA, NY, IL, NJ, FL, KS, TX, PA, VA, MA, WV, MI, and NH.

MC 158288 (Sub-1), filed April 26, 1982. Applicant: MONTANA CONSULTANTS, INC., d.b.a. TOMAHAWK TRANSPORTATION, INC., 5400 Laurel Rd., Billings, MT 59101. Representative: David A. Sutherland, 1150 Connecticut Ave., N.W., Suite 400, Washington, DC 20036, (202) 452–6800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. under continuing contract(s) with Pennzoil Products Company a division of Pennzoil Company of Houston, TX.

MC 158288 (Sub-2), filed April 26, 1982. Applicant: MONTANA CONSULTANTS, INC., d.b.a. TOMAHAWK TRANSPORTATION, INC., 5400 Laurel Rd., Billings, MT 59101. Representative: David A. Sutherland, 1150 Connecticut Ave., NW, Ste. 400, Washington, DC 20036, (202) 452–6800. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with The Dow Chemical Company and its wholly owned subsidiary, Dowell, Inc. Western Area, Pittsburg, CA.

MC 159308 (Sub-1), filed April 27, 1982. Applicant: G. RADEN & SONS, INC., 18289 Olympic Avenue S., Seattle, WA 98188. Representative: Henry C. Winters, 12600 S.E. 38th St., Ste. 200, Bellevue, WA 98006, (206) 644–2100. Transporting *glass containers and accessories therefor,* between points in King County, WA, on the one hand, and, on the other, points in CA.

MC 159519, filed April 27, 1982. Applicant: R.W. JOYCE TRUCKING COMPANY, INC., P.O. Box 1201, 237 Starlite Rd., Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave., NW, Washington, DC 20005, 202–347–9332. Transporting *chemicals and related products* (except in bulk), between points in Surry County, NC on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161268, filed April 26, 1982. Applicant: LLOYD DAIBER, d.b.a. LLOYD DAIBER TRUCKING, 2226 Caldwell Rd., Bucyrus, OH 44820. Representative: Jerry B. Sellman, 50 West Broad St., Columbus, OH 43215 (614) 464–4103. Transporting *such commodities* as are dealt in or used by manufacturers, processors, or distributors of crushed glass, recycled aluminum, and recycled paper, between points in Marion County, OH, on the one hand, and, on the other, points in IL, IN, and WV.

MC 161368, filed April 27, 1982. Applicant: CAPCO TRANSPORT, INC., 1100 W. Industrial Rd., Cedar City, UT 84720. Representative: Dalid R. Altshuler, 2029 Century Park East, Suite 1700, Los Angeles, CA 90067 (213) 552–2010. Transporting *petroleum products* (1) between points in Iron County, UT on the one hand, and, on the other, points in AZ, CA, NV, and NM, and (2) between points in Coconino County, AZ, on the one hand, and, on the other, points in Iron County, UT, under continuing contract(s) with CAPCO Petroleum, Inc., of Cedar City, UT.

MC 161649, filed April 23, 1982. Applicant: SISBRO, INC., P.O. Box 3765, Quincy, IL 62301. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701 (217) 544–5468. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, IN, IA, MO, and WI, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, MI, MN, MO, OH, TN, and WI.

MC 161658, filed April 26, 1982. Applicant: KARRIERS, INC., Route 1, Box 143, P.O. Box 5157, Grand Forks, ND 58201. Representative: Thomas J. Van Osdel, 15 Broadway, Suite 502, Fargo, ND 58102 (701) 235–4487. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Becker, Beltrami, Big Stone, Cass, Clay, Clearwater, Douglas, Grant, Hubbard, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Ottertail, Pennington, Polk, Pope, Red Lake, Roseau, Stevens, Todd, Traverse, Wadena and Wilkin Counties, MN, and points in ND, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161669, filed April 26, 1982. Applicant: DIXIE DRAYAGE SERVICE, INC., 680 Industrial Parkway, Saraland, AL 36571. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203 (205) 251–5223. Transporting (1) *pulp, paper and related products,* and (2) *food and related products,* between points in AL, GA, FL, LA, MS, and TN.

MC 161689, filed April 27, 1982. Applicant: JERRY BIBBS TRUCKING, 1432 Belmont, Toledo, Ohio 43602. Representative: Jerry Bibbs (same address as applicant), (1–419) 243–7715. Transporting (1) *scrap metal,* and (2) *metal products,* between points in OH, IN, and MI, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Magnimet Corp., of Toledo, OH., and North Star Steel, of Monroe, MI.

MC 161698, filed April 27, 1982. Applicant: WILSON AND HAMILTON, INC., 12 Main St., Zanesville, OH 43701. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, 614–224–3161. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH.

MC 161708, filed April 28, 1982. Applicant: JUTTA UNIVERSAL SYSTEMS, INC., Crystal Brook Professional Bldg., State Highway 35, Eatontown, NJ 07724. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting (1) *charcoal, chemicals, logs, and rock salt,* under continuing contract(s) with New Jersey Charcoal Co., of Fairfield, NJ, and (2) *food and related products,* under continuing contract(s) with Drake Bakeries, Div. Borden, Inc., of East Brunswick, NJ., S. B. Thomas, Inc., of Totowa, NJ, and Metroplex Distributors of Edison, NJ, between points in the U.S. (except AK and HI).

MC 161718, filed April 27, 1982. Applicant: LAMBERT TOURS, INC., P.O. Box 79647, Houston, TX 77279. Representative: Betty R. Lambert (same address as applicant), (713) 461–2055. To operate as a *broker* at Houston, TX, arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at Houston, TX, and extending to points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–12997 Filed 5–12–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–9315, published at page 14970, on Wednesday, April 7, 1982, on page 14974, in the first column, in the

first paragraph "MC 154772 (Sub-1)", in the twenty-ninth line "WI, ND" should be corrected to read "WI, IA, ND".

BILLING CODE 1505-01-M

[Finance Docket No. 29923, etc.]

Acquisition of a Rail Line of Chicago, Rock Island and Pacific Co., et al; Notice of Applications to Purchase Rail Line

AGENCY: Interstate Commerce Commission.

ACTION: Proceedings shceduled.

SUMMARY: The Commission is considerting applications involving the purchase of 630 miles of line owned by the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee). The line runs from Salina, KS to Dallas, TX. Related petitions for exemption under 49 U.S.C. 10505 have also been filed and will be considered along with the purchase applications.

DATE: Comments and verified statements supporting or opposing the proposed transactions must be received at the Commission by May 19, 1982.

ADDRESSES: An original and 7 copies of all statememts should make reference to Finance Docket No. 29923 and should be sent to: Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245; or J. Carol Brooks (202) 275-7888

SUPPLEMENTARY INFORMATION:

In the matter of Finance Docket No. 29923, acquisition of a rail line of the Chicago, Rock Island & Pacific Railroad Co., debtor (William M. Gibbons, trustee)—between Fort Worth, TX and Dallas, TX; Finance Docket No. 29923 (Sub-1), Oklahoma Kansas & Texas Railroad Co.—operate (Portion)—Chicago, Rock Island & Pacific Railroad Co., debtor (William M. Gibbons, trustee) between Salina, KS and Dallas, TX—Exemption from 49 U.S.C. 10901; Finance Docket No. 29923 (Sub-2), acquisition of a rail line of the Chicago, Rock Island & Pacific Railroad Co., debtor (William M. Gibbons, trustee)—between Salina, KS and Fort Worth, TX; Finance Docket No. 29923 (Sub-3), Misssouri-Kansas-Texas Railroad Co.—Control—Oklahoma, Kansas & Texas Railroad Co.—Exemption from 49 U.S.C. 11343; Finance Docket No. 29923 (Sub-4), application of Missouri-Kansas-Texas Railroad Co., to issue securities—Exemption from 49 U.S.C. 11301.

These proceedings involve the purchase of approximately 630 miles of line owned by the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gobbons, Trustee) (Rock Island), between Salina, KS and Dallas, TX. The Oklahoma, Kansas and Texas Rail Users Association (Users Association) the State of Oklahoma, and the Missouri-Kansas-Texas Railroad Company (MKT) have reached a preliminary agreement with the Rock Island Trustee to purchase the involved lines. In turn, these entities will enter into agreements with the Oklahoma, Kansas and Texas Railroad Company (OKT), whereby OKT will perform all rail freight operations over the entire line.

The State of Oklahoma will acquire all portions of the subject Rock Island line within the State of Oklahoma, for $15 million. These lines include: (1) The Herington-Fort Worth line which extends from the Oklahoma-Kansas State line south through Grant, Garfield, Kingfisher, Canadian, Grady, Stephens and Jefferson Counties, to the Oklahoma-Texas State line, a distance of 223.8 miles; (2) the El Reno/Oklahoma City line which extends from El Reno through Canadian and Oklahoma Counties to Midwest City, a distance of 34.9 miles; and (3) the Lawton Branch line which runs from Chickasha, OK to Anadarko, OK, and then from milepost 460.5 to milepost 537.6 Waurika, OK, a total distance of 95.1 miles. The specific properties to be acquired by MKT and the Users Association are described below.

In Finance Docket No. 29923 (Sub-No. 2), the Users Association (a non-carrier shippers' association) proposes to acquire that portion of the Rock Island line which runs between Salina, KS and the Kansas-Oklahoma State line and from the Oklahoma-Texas State line to Fort Worth, TX, a distance of approximately 242 miles. The Users Association will pay $25 million for the properties. It is seeking to borrow this amount from the Federal Railroad Administration (FRA) under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. No. 94-210 (4R Act). After acquiring the property, it will enter into a lease-purchase or conditional sale agreement with OKT under which OKT will have the responsibility to operate the line and to repay the FRA loan.

In Finance Docket No. 29923, MKT proposes to acquire a perpetual exclusive rail freight easement over about 33.9 miles of Rock Island main line between Fort Worth and Dallas, TX. It will also purchase 1 mile of track extending from Tower 55 in Fort Worth to Dalwor Junction, about 0.6 mile of connecting trackage, and all yard, TOFC, and freight office facilities included in Cadiz Yard and Mockingbird or New Yard in Dallas, as well as Rock Island's interest in certain trackage rights agreements. The principal interchange points would be Fort Worth, Great Southwest Junction, Irving, and Dallas, TX. MKT will pay $15 million for these properties. To finance the transaction, MKT has requested funding from the FRA under section 511 of the 4R Act.

In connection with the FRA funding, MKT proposes to issue a note in an amount not to exceed $15 million payable to the Federal Financing Bank over a 20-year period. In Finance Docket No. 29923 (Sub-No. 4), MKT requests that the note issuance be exempted under 49 U.S.C. 10505 [1] from any requirements of 49 U.S.C. 11301 for prior approval of the transaction.

In Finance Docket No. 29923 (Sub-No. 1), OKT requests an exemption under 49 U.S.C. 10505 from the requirements of 49 U.S.C. 10901 for our prior approval of OKT's proposed operation of the entire line from Salina to Dallas. OKT is a wholly-owned subsidiary of the MKT. From May, 1980 to the end of 1981, OKT operated the involved lines pursuant to Service Orders No. 1473 and No. 1498. Upon consummation of the proposed purchases, OKT will institute rail freight service over the entire line which will be substantially the same as that provided under temporary authority. Based on OKT's operations under temporary authority, OKT projects gross revenues of $36,676,000 for the first year of operation, increasing to $49,464,000 in the fourth year.

In Finance Docket No. 29923 (Sub-No. 3), MKT seeks an exemption under 49 U.S.C. 10505 from the requirements of 49 U.S.C. 11343-11344 for our prior approval of MKT's control of OKT. MKT, which is 98 percent owned by Katy Industries, Inc., will control OKT through ownership of 100 percent of OKT's outstanding capital stock. MKT presently operates as a rail freight carrier in Missouri, Kansas, Oklahoma, and Texas. Its main lines extend from Kansas City, (Missouri and Kansas) and St. Louis, MO, through Parsons, KS, Fort Worth and Dallas, TX to Houston, San Antonio, Texas City and Galveston, TX. Its lines generally run parallel to the line to be operated by OKT.

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[1] Under 49 U.S.C. 10505, we are authorized to exempt a transaction or service when we find that regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101a and either the transaction is of limited scope or regulation is not needed to protect shippers from the abuse of market power.

Preliminary approval of the proposed transactions was obtained on May 3, 1982, from the court overseeing the reorganization of the Rock Island in *In the Matter of Chicago, Rock Island and Pacific Railroad Company, Debtor,* No. 75 B 2697 (U.S. Dist. Court, N.D. Ill.). The court has also directed the Commission to issue a decision on the proposed transaction on or before June 4, 1982. Parties wishing to comment on the proposals may do so no later than May 19, 1982.

A copy of the comments should be served upon the Attorney General of the United States and the United States Secretary of Transportation, and upon applicants' and petitioners' representative: Michael E. Roper, Missouri-Kansas-Texas Railroad Co., General Office, Katy Building, 701 Commerce Street, Dallas, TX, 75202.

Waiver Request

The Users Association and MKT request waiver of certain of our regulations. They request waiver of the requirement of 49 CFR 1111.25(b)(5)(v) for service of a copy of the application on all parties to the Bankruptcy Court proceedings. They assert that compliance with this requirement would be an undue burden and expense, and not possible because of the tight time constraints set by the Court. Instead, they proposed to send to all parties in the bankruptcy proceeding a one-page notice, identifying and summarizing the transactions. The notice will also state that a copy of the application will be furnished to any party upon request.

Second, MKT and the Users Association request waiver of the labor informational requirements of Exhibit 4 found in 49 CFR 1111.21(a)(3)(vii). Since neither entity will be operating the line and the pleadings filed by OKT contain the necessary information on railway labor impact, they contend that no purpose would be served by requiring this information from the non-operator applicants.

It is ordered:

1. The applications in Finance Docket No. 29923 and No. 29923 (Sub-No. 2) are accepted for consideration.

2. This decision is effective on the date served.

Dated: May 11, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-13190 Filed 5-12-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 427]

Railcarriers; Joint Rate Study; Report to Congress

AGENCY: Interstate Commerce Commission.

ACTION: Request for comments; extension of comment period.

SUMMARY: The Traffic Executive Association—Eastern Railroads, on behalf of itself and its members, has requested a sixty-day extension of the due date for filing comments in this proceeding.[1] The current comment date in this proceeding is May 17, 1982. The reply date is June 16, 1982. A sixty-day extension would not allow the Commission sufficient time to prepare and submit its report by the statutory due date of October 1, 1982. We will grant a thirty-day extension which we believe will allow all parties sufficient time to prepare and file comments.

DUE DATES: Comments are due June 16, 1982. Replies are due July 16, 1982.

ADDRESSES: An original and 12 copies of each statement, including certificate showing service upon all parties of record should be directed to: Office of Proceedings, Interstate Commerce Commission, Room 5340, 12th & Constitution Avenue, N.W., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Tyree (202) 275-0785.

Decided: By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: May 7, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-12998 Filed 5-12-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Bureau for Private Enterprise; Offer of Financing Participation With U.S. Financial Institutions Doing Business in Selected Developing Counties

The United States Agency for International Development (A.I.D.) Bureau for Private Enterprise (PRE) announces the establishment of a new program conducted pursuant to authorities contained in the Foreign Assistance Act of 1961, as amended in which A.I.D. will participate with private investors in financing selected projects in developing countries where A.I.D. now conducts assistance programs. Priority will be given to projects in: Indonesia, Sri Lanka, Thailand, Pakistan, Egypt, Ivory Coast, Zimbabwe, Kenya, Jamaica and Costa Rica.

U.S. financial institutions, particularly those with subsidiaries, branches, or affiliates in the above countries, are invited to contact A.I.D. to discuss ways in which available A.I.D./PRE funds may be combined with their own and local investor funds to carry out projects with significant development impact. Projects involving agribusiness or agricultural development will receive priority consideration.

A.I.D./PRE will participate in such investments as a minority investor only. Terms are flexible within the context of various forms of debt instruments. A.I.D./PRE is particularly interested in providing (for development project) financing that will help solve intermediate and longer-term capital market deficiences.

By this notice, A.I.D. is seeking proposed submissions from the U.S. financial community. A.I.D./PRE has recently implemented accelerated procedures for evaluation and review and will provide more detail upon request.

Inquiries and proposals should be directed to: Office of Policy and Investment, Bureau for Private Enterprise, Agency for International Development, 320 21st Street, NW., Room 5893, Washington, DC 20523, Telephone Number: (202) 632-8634 or (202) 632-5743.

Dated: May 4, 1982.

Edgar C. Harrell,

Deputy Assistant Administrator, Bureau for Private Enterprise.

[FR Doc. 82-13029 Filed 5-12-82; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 4-82]

Privacy Act of 1974; New System of Records

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, notice is hereby given that the Department of Justice proposes to add a new category of individuals to the United States Attorneys' Criminal Case Files system (JUSTICE/USA-007). The proposed amendment will include in the system the names of those individuals who are placed into a rehabilitative program known as "Pretrial Diversion." The program is a practical alternative to prosecution which seeks to divert certain offenders from traditional

[1] See 47 FR 11787, March 18, 1982.

criminal justice processing into a progam of supervision.

Section 552a(o) of Title 5, United States Code requires that advance notice of this amendment be provided to the Congress and the Office of Management and Budget (OMB). Therefore, a report has been filed with the Director of OMB, the President of the Senate, and the Speaker of the House of Representatives.

OMB, which has oversight responsibility under the Act, requires a 60-day period in which to review the proposal before it is implemented. A waiver of the 60-day requirement has been requested by the Department of Justice. If the waiver is granted, the proposed amendment will be effective as soon as OMB approval is received. If OMB denies the requested waiver, the amendment will be effective July 12, 1982. In either instance, upon OMB approval, the amendment will be implemented without further notice in the Federal Register. No oral hearings are contemplated.

Congress, OMB, and the public may address any comments to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Dated: May 5, 1982.

William D. VanStavoren,

Acting Assistant Attorney General for Administration.

JUSTICE/USA-007

SYSTEM NAME:

Criminal Case Files.

SYSTEM LOCATION:

Ninety-five United States Attorneys' Offices (See attached Appendix): Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals charged with violations: (b) Individuals being investigated for violations; (c) Defense Counsel(s); (d) Information Sources; (e) Individuals relevant to development of Criminal Cases; (f) Individuals investigated, but prosecution declined; (g) Individuals referred to in potential or actual cases and matters of concern to a U.S. Attorney's Office; *(h) Individuals placed into the Department's Pretrial Diversion program.*

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) All case files (USA-33); (b) Docket Cards (USA-115); (c) Criminal Debtor Cards (USA-117a); (d) Criminal Case Activity Card (USA-163); (e) Criminal Debtor Activity Card (USA-164); (f) 3' x 5' Index Cards; (g) Caseload Printouts; (h) Attorney Assignment Sheets; (i) General Correspondence re: Criminal Cases; (j) Reading Files re: Criminal Cases; (k) Grand Jury Proceedings; (l) Miscellaneous Investigative Reports; (m) Information Source Files; (n) Parole Recommendations; (o) Immunity Requests; (p) Witness Protection Files; (q) Wiretap Authorizations; (r) Search Warrants; (s) Telephone records; (t) Criminal Complaints; (u) Sealed Indictment Records; (v) Files unique to a District; (w) Criminal Miscellaneous Correspondence File; (x) Prosecution Declined Reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) In any case in which there is an indication of a violation or potential violation of law, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate Federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

(b) In the course of investigating the potential or actual violation of any law, criminal, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a Federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(c) A record relating to a case or matter may be disseminated in an appropriate Federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

(d) A record relating to a case or matter may be disseminated to a Federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a Federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person;

(h) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) A record may be disseminated to a Federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(j) A record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(k) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi,

provided that the record does not contain any information identifiable to a specific individual other than such modus operandi;

(l) A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return;

(m) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60.

(n) A record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him in the institution or maintenance of a suit brought under such title.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

(n) A record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him in the institution or maintenance of a suit brought under such title.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within minila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

RETRIEVABILITY:

Information is retrieved primarily by name of person, case number, complaint number or court docket number. Information within this system of records may be accessed by various U.S. Attorneys' Offices and the Executive Office for United States Attorneys by means of catho-ray tube terminals (CRT's).

SAFEGUARDS:

Information in the system is both confidential and non-confidential and located in file cabinets in the United States Attorney offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during non-working hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievable by CRT's within various U.S. Attorneys' offices and the Executive Office for United States Attorneys requires user identification numbers which are issued to authorized employees of the Department of Justice.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department of Justice retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

System manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district (See attached Appendix).

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager for the judicial district in which the case or matter is pending (See attached Appendix).

RECORD ACCESS PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing., with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager (See attached Appendix).

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (See attached Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are not limited to investigative reports of federal, state and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of Grand Jury and court proceedings; data, memoranda and reports from the Court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections(c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4) (G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and

(e) and have been published in the **Federal Register.**

[FR Doc. 82-13026 Filed 5-12-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 82-26]

NASA Advisory Council; 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 the forthcoming meeting of the NASA Advisory Council, Informal Ad Hoc Solar System Exploration Committee.

DATE AND TIME: June 3, 1982, 8:30 a.m. to 5:30 p.m. and June 4, 1982, 8:30 a.m. to 4:30 p.m.

ADDRESS: Director's Conference Room (3501), National Air and Space Museum, Washington, DC 20560.

FOR FURTHER INFORMATION CONTACT: Mrs. Diane M. Mangel, National Aeronautics and Space Administration, Code EL-4, Washington, DC 20546 (202/755-3728).

SUPPLEMENTARY INFORMATION: The Informal Ad Hoc solar System Exploration committee was established under the NASA Advisory Council to translate the scientific strategy developed by the committee on Planetary Exploration (COMPLEX) into a realistic, technically sound sequence of missions consistent with that strategy and with resources expected to be available for solar system exploration.

The committee will report its findings to the council and to NASA. The committee is chaired by Dr. Noel W. Hinners and is composed of four other members of the council and its standing committees, who will meet with about 9 other invited participants and certain NASA personnel.

The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons, including committee members and invited meeting participants). Vistors will be requested to sign a visitor's register.

TYPE OF MEETING: Open.

AGENDA:

June 3, 1982

8:30 a.m.—Introduction and Program Status

1:30 p.m.—Pioneer Study Status and Mariner Mark II Status

5:30 p.m.—Adjourn

June 4, 1982

8:30 a.m.—Business Carried Over from Previous Day

1:30 p.m.—SSEC Report and Action Items

4:30 p.m.—Adjourn

Dated: May 6, 1982.

Nathaniel B. Cohen,

Director, Management Support Office, Office of External Relations.

[FR Doc. 82-13010 Filed 5-12-82; 8:45 am]

BILLING CODE 7510-01-M

[Notice 82-25]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration anounces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Executive Subcommittee.

DATE AND TIME: June 8, 1982, 8:30 a.m. to 5 p.m.; June 9, 1982, 8:30 a.m. to 12 Noon.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Ave., SW, Room 625, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. C. Robert Nysmith, National Aeronautics and Space Administration, Code R, Washington, DC 20546 (202/755-8550).

SUPPLEMENTARY INFORMATION: The Informal Executive Subcommittee was established to provide overall guidance and direction to the space research and technology activities of the Space Systems and Technology Advisory Committee. The Subcommittee, chaired by Mr. Robert L. Johnson, is comprised of seven members.

The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Subcommittee members and participants).

TYPE OF MEETING: Open.

AGENDA:

June 8, 1982

8:30 a.m.—Opening Remarks.

8:45 a.m.—Current Status of the NASA Office of Aeronautics and Space Technology Budget and Long Range Planning Activities.

10 a.m.—Subcommittee Chairperson's Reports.

3:15 p.m.—Discussion and Consolidation of Subcommittee Reports.

5 p.m.—Adjourn.

June 9, 1982

8:30 a.m.—Continuation—Discussion and Consolidation of Subcommittee Reports.

10:45 a.m.—Summary of Meeting Results to the Office of Aeronautics and Space Technology Management.

12 Noon—Adjourn.

Dated: May 6, 1982.

Nathaniel B. Cohen,

Director, Management Support Office, Office of External Relations.

[FR Doc. 82-13011 Filed 5-12-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Civil and Environmental Engineering Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Civil and Environmental Engineering (CEE) of the Advisory Committee for Engineering

Date and Time: June 3, 1982—9:30 a.m. to 5:00 p.m., June 4, 1982—9:00 a.m. to 12 noon

Place: Room 1242, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550

Type of meeting: 6/3/82—Open 6/4/82—Open

Contact person: Dr. William S. Butcher, Director, Division of Civil and Environmental Engineering, Room 1132, National Science Foundation Washington, D.C. 20550—Telephone (202) 357-9545

Summary minutes: May be obtained from the contact person

Agenda

Thursday, June 3, 1982—Open—9:30 a.m. to 5:00 p.m.

9:30—Opening and general report by Division Director

(a) Status of FY 1983 budget request

(b) Comparison of FY 1983 requests within Engineering

(c) Relative funding of Engineering versus other directorates

(d) Other

10:00—Impact of changes in other agency research support on NSF's programs in:

(a) Geotechnical Engineering

(b) Structural Mechanics

(c) Water Resources Engineering

(d) Environmental Engineering

11:00—Discussion of NSF's role in research on:

(a) Building science

(b) Transportation engineering

(c) Construction engineering

(d) Problem of hazardous waste disposal

(e) The Urban infrastructure problem
(f) Other
12:00—Lunch
1:30—Major Experimental Facilities
—Unmet needs in civil engineering
—Study of needs in earthquake engineering
—U.S. role in world community
3:00—A proposal for a comprehensive study of research needs in civil engineering as a whole
5:00—Adjourn

Friday, June 4, 1982—Open—9:00 a.m. to 12:00 noon

9:00—Discussion of budget priorities for FY 1984 and other division-wide concerns
12:00—Adjourn

M. Rebecca Winkler,

Committee Management Coordinator.

May 10, 1982.

[FR Doc. 82-13019 Filed 5-12-82; 8:45 am]

BILLING CODE 7555-01-M

Subpanel For Geography & Regional Science of the Advisory Panel for Social & Economic Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel for Geography & Regional Science of the Advisory Panel for Social and Economic Science.
Date/time: June 3, 1982; 8:30 a.m. to 5.00 p.m.
Place: Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of meeting: Closed
Contact person: Dr. James H. Blackman, Acting Program Director, Geography & Regional Science, Room 312, National Science Foundation, Washington, D.C. 20550; telephone (202) 357-7326.
Purpose of subpanel: To provide advice and recommendations concerning support for research in Geography and Regional Science.
Agenda: Closed portion: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietory or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

May 10, 1982.

[FR Doc. 82-13020 Filed 5-12-82; 8:45 am]

BILLING CODE 7555-01-M

Docket No. 50-313

Arkansas Power & Light Co., Arkansas Nuclear One, Unit 1; Exemption Operation While Irradiating Reactor Vessel Surveillance Specimens At Davis-Besse Unit No. 1 (Appendix H to 10 CFR 50)

The Nuclear Regulatory Commission (the Commission) has granted an Exemption to the Arkansas Power and Light Company (the licensee) for Arkansas Nuclear One, Unit No. 1 (located in Pope County, Arkansas), from the requirement for a continuing in-vessel material surveillance program as set forth in Appendix H to 10 CFR Part 50. The Exemption is effective for a period of five years from the date of issuance.

In granting this Exemption, the Commission determined that it is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The Commission also determined that granting this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this action.

For further details, see (1) the licensee's request by letter dated April 2, 1982, and (2) the Commission's letter to the licensee dated April 30, 1982. These items can be reviewed at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Arkansas Tech University, Russellville, Arkansas.

A copy of item (1) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of April 1982.

For The Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-13086 Filed 5-12-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155 (Spent Fuel Pool Amdt.]

Consumers Power Co. (Big Rock Point Plant)

Evidentiary Hearing June 7-15, 1982

May 7, 1982.

From June 7, 1982 to June 15, 1982 the Atomic Safety and Licensing Board will conduct an evidentiary hearing in this case at Boyne Mountain Lodge, Boyne Falls, Michigan 49713 (telephone: 616-549-2441). The general purpose of the hearing is to receive evidence on all issues that have been admitted to this hearing, concerning the appropriateness of licensing Consumers Power Company to modify Big Rock Point's spent fuel pool to accommodate more spent fuel; however, evidence will be excluded concerning whether or not there are anomalous soil conditions affecting the seismic analysis of the safety of the containment crane. That one safety issue will be considered only after the Nuclear Regulatory Commission's Staff completes its study of the issue.

Ordinary hours of hearing will be from 9 am to 5 pm, subject to periodic recesses and to extension of hours in order to complete the hearing during the scheduled time period. Saturday and evening sessions will be scheduled if necessary.

Members of the public who are not parties to the proceeding are invited to submit written limited appearance statements and to make brief oral presentations to the Board. The principal purpose of these statements is to inform the Board about safety and environmental issues which have been placed before it by the parties or about other issues of such importance that the Board may decide that it must consider them even though the parties have not raised them.

Although statements generally will be permitted regardless of their direct relevance to this proceeding, the Board's authority is limited; in particular, it is prohibited from reaching decisions contrary to the Commission's rules and regulations. Consequently, some public appeals may be more effective if addressed either to the Nuclear Regulatory Commission directly or to the Congress of the United States.

Limited appearance statements will become part of the record of the case. Generally, written statements are not limited in length. However, we expect that oral presentations will be limited to 5 minutes, subject to extension at the Board's discretion. Oral presentations should concisely summarize the key points made in written testimony and, if additional time may be needed, these

statements should indicate the specific subjects to be discussed if an extension of time is granted.

Persons wishing to appear will kindly notify the Board of their intention by writing to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Attention: Docketing and Service Branch, Washington, D.C. 20555. Please refer to the Docket No. 50–155 and indicate which evenings during the week of June 7 through June 11 will not be convenient for you, so that we may schedule limited appearance statements beginning at 7:30 pm on one or more evenings convenient for the people wishing to participate. Also, include your address and telephone number so we can notify you of your time at the hearing. People unable to provide advance notice of their intention to particpate may schedule an oral appearance by notifying the Board of their intention, in writing, during the course of the proceeding, indicating dates of unavailability.

Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Peter B. Bloch,

Chairman, Administrative Judge.

[FR Doc. 82-13103 Filed 5-12-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–302]

Florida Power Corp., et al. (Crystal River Unit No. 3 Nuclear Generating Plant); Exemption

I

The Florida Power Corporation (the licensee) and eleven other co-owners are the holders of Facility Operating License No. DPR–72 which authorizes operation of the Crystal River Unit No. 3 Nuclear Generating Plant. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission nor or hereafter in effect.

The facility comprises one pressurized water reactor at the licensee's site located in Citrus County, Florida.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. Three of these 15 subsections, III.G, III.L and III.O are the subjects of this Exemption. Subsection III.G specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, is required (III.G.3 and III.L). Subsection III.O specifies the requirements for an oil collection system for the reactor coolant pumps.

Section 50.48(c) required completion of all modifications to meet the provisions of Appendix R within a specified time from the effective date of this fire protection rule, February 17, 1981, except for modifications to provide alternative safe shutdown capability. These latter modifications (III.G.3) require NRC review and approval. Hence, Section 50.48(c) requires their completion within a certain time after NRC approval. The date for submittal of design descriptions of any modifications to provide alternative safe shutdown capability was specified as March 19, 1981.

By letter dated March 19, 1981, as amended March 17, 1982, and by letter dated June 30, 1981, Florida Power Corporation requested the following exemptions:

(1) Extend from March 19, 1981, to June 30, 1982, the date for submittal of a final Appendix R Fire Study, including Sections III.G and III.L; and

(2) Extend the implementation schedule identified in 10 CFR 50.48(c)(3) for modifications required for conformance to Section III.O of Appendix R to as follows:

Any required modifications will be implemented before startup after the earliest of the following events commencing July 1, 1982:

(i) The first refueling outage, or

(ii) Another planned outage that lasts for at least 60 days; or

(iii) An unplanned outage that lasts for at least 120 days.

The NRC staff reviewed the licensee's request and interpret that the licensee requested exemption from 10 CFR 50.48(c) with respect to the requirements of Sections III.O, III.G and III.L as follows:

(1) Extend from March 19, 1981, to June 30, 1982, the date for submittal of plans and schedules to achieve compliance with III.G.2 required by § 50.48(c)(5);

(2) Extend from March 19, 1981, to June 30, 1982, the date for filing additional exemptions from Section III.G pursuant to § 50.48(c)(6);

(3) Extend from March 19, 1981, to June 30, 1982, the date for submittal of design descriptions of alternative or dedicated shutdown systems to comply with Sections III.G.3 and III.L, if such are necessary; and

(4) Extend from February 17, 1981, to June 30, 1982, the date from which the installation schedules established in § 50.48(c) (2) and (3) are calculated.

When this fire protection rule was approved by the Commission, it was understood that the time required for each licensee to reexamine those previously-approved configurations at its plant to determine whether they meet the requirements of Section III.G of Appendix R to 10 CFR 50 was not well known and would vary depending upon the degree of conformance. For each item of nonconformance that was found, a fire hazards analysis had to be performed to determine whether the existing configuration provided sufficient fire protection. If it did, a basis had to be formulated for an exemption request. If it did not, modifications to either meet the requirements of Appendix R or to provide some other acceptable configuration, that could be justified for an exemption, had to be designed. Where fire protection features alone could not ensure protection of safe shutdown capability, alternative safe shutdown capability had to be designed as required by Sections III.G.3 and III.L of Appendix R. Depending upon the extensiveness and number of the areas involved, the time required for this reexamination, reanalysis and redesign could vary from a few months to a year or more. The Commission decided, however, to require one, short-term date for all licensees in the interest of ensuring a best-effort, expedited completion of compliance with the fire protection rule, recognizing that there would be a number of licensees who could not meet these time restraints but who could then request appropriate relief through the exemption process. Licensees for 44 of the 72 plants to which Appendix R applies (plants with an operating license issued prior to January 1, 1979) have requested such schedular relief.

The licensees for the remaining 28 plants made submittals to meet the schedular requirements of § 50.48(c). All of these submittals, however, were deficient in some respects. In general, much of the information requested in a generic letter (81–12) dated February 20, 1981, to the licensees of all 72 plants, was not provided. Therefore, additional time is being used to complete those submittals also.

III

Prior to the issuance of Appendix R, Crystal River Unit No. 3 had been reviewed against the criteria of Appendix A to the Branch Technical Position 9.5–1 (BTP 9.5–1). The BTP 9.5–1 was developed to resolve the lessons learned from the fire at Browns Ferry Nuclear Plant. It is broader in scope than Appendix R, formed the nucleus of the criteria developed further in Appendix R and in its present, revised form constitutes the section of the Standard Review Plan used for the review of applications for construction permit and operating licenses of new plants. The review was completed by the NRC staff and its fire protection consultants and a Fire Protection Safety Evaluation (FPSER) was issued. A few items remained unresolved. Further discourse between the licensee and the NRC staff resulted in resolution of the majority of these items. The FPSER supported the issuance of an amendment to the operating license of Crystal River Unit No. 3[1] which required modifications to be made to plant physical features, systems, and administrative controls to meet the criteria of Appendix A to BTP 9.5–1. All of these modifications, including the modifications associated with the items resolved since issuance of the FPSER, have been completed. Therefore, the Crystal River Unit No. 3 has already been upgraded to a high degree of fire protection. The extensive reassessment involved in the request for additional time with regard to Section III.G and, if necessary, Section III.L to Appendix R of 10 CFR Part 50 is to quantify, in detail, the differences between what was recently approved and the specific requirements of these sections.

With regard to Section III.O to Appendix R of 10 CFR 50, the request for additional time is for the installation of any necessary modifications to the existing approved reactor coolant pump (RCP) oil collection system or, if necessary, the installation of a new RCP oil collection system required to meet the specific requirements of Section III.O of Appendix R to 10 CFR Part 50. No exemption from the technical requirements is requested.

Based on the above considerations, we find that the licensee has completed a substantial part of the fire protection features at Crystal River Unit No. 3. The licensee is applying significant effort to complete the reassessment of any remaining modifications and designs which might be necessary for strict conformance with Sections III.G, III.L and III.O. We find that because of the already-completed upgrading of this facility, there is no undue risk to the health and safety of the public involved with continued operation until the completion of this reassessment on June 30, 1982 and the installation of the revised designs after that date in accordance with the provisions of the Exemption. Therefore, an exemption should be granted to allow such time for completion. However, because we have found that most submittals of this reanalysis for conformance to Section III.G to date from other licensees have not been complete; that is, not all of the information requested by generic letter 81–12 dated February 20, 1981, was provided, we are adding a condition to this Exemption that requires all such information to be submitted by the date granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authoirzed by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemptions with respect to the requirements of Sections III.G, III.L and III.O of Appendix R to 10 CFR 50:

(1) The date, March 19, 1981, for submittal of plans and schedules to achieve compliance as required by § 50.48(c)(5) is extended to June 30, 1982;

(2) The date, March 19, 1981, for filing exemption requests pursuant to § 50.48(c)(6) which includes a tolling provision is extended to June 30, 1982;

(3) The date, March 19, 1981, for submittal of design descriptions of alternative or dedicated shutdown systems to comply with Sections III.G.3 and III.L as required by § 50.48(c)(5) is extended to June 30, 1982; and

(4) The date, February 17, 1981, from which the installation schedules established in § 50.48(c)(2) and (3) are calculated, is extended to June 30, 1982;

Provided the following conditions are met:

(1) Requests for exemption pursuant to § 50.48(c)(6) must include:

(a) A concise statement of the extent of the exemption;

(b) A concise description of the proposed alternative design features related to assuring post-fire shutdown capability; and

(c) A sound technical basis that justifies the proposed alternative in terms of protection afforded to post-fire shutdown capability, degree of enhancement in fire safety by full compliance with III.G requirements, or the detriment to plant safety incurred by full compliance with III.G. A simple statement that the feature for which the exemption is requested was previously approved by the NRC staff is not sufficient. A simple assertion that in the licensee's judgment the feature for which the exemption is requested is adequate fire protection is not sufficient.

(2) The design descriptions of alternative or dedicated shutdown systems to comply with Section III.G.3, as required by § 50.48(c)(5) shall include a point-by-point response to each item in Section 8 of Enclosure 1 to generic letter 81–12 dated February 20, 1981, and to each item in Enclosure 2 to generic letter 81–12 dated February 20, 1981.

If the licensee does not meet the above conditions, the licensee will be found in violation of 10 CFR 50.48(c) even though the submittal may be made within the time limit granted by the Exemption. If such a violation occurs, imposition of a civil penalty will be considered under Section 234 of the Atomic Energy Act, as amended. Such a violation will be a continuing one beginning with the date set in the Exemption for submittal and terminating when all inadequacies are corrected.

A delay in the determination of inadequacy by the NRC staff, caused by the workload associated with reviewing all of the submittals falling due near the same time, will not relieve the licensee of the responsibility for completeness of the submittal, nor will such delay cause any penalty that may be imposed to be mitigated.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 4th day of May, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82–13088 Filed 5–12–82; 8:45 am]

BILLING CODE 7590–01–M

[1] Crystal River Unit No. 3—Operating License No. DPR–72: Amendment No. 23 Supported by FPSER issued July 27, 1979; SER Supplement dated October 14, 1980; SER Supplemenmt dated January 22, 1981.

[Dockets Nos. 50–321 and 50–366]

Georgia Power Co. et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has

issued Amendments Nos. 88 and 27 to Facility Operating Licenses Nos. DPR–57 and NPF–5, issued to Georgia Power Company, Oglethorp Power Corporation, Muncipal Electric Authority of Georgia, and City of Dalton, Georgia, which revised Technical Specifications (TSs) for operation of the Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2 (the facility) located in Appling County, Georgia. The amendments are effective as of the date of issuance.

The amendment modifies the TSs to provide limiting conditions of operation, surveillance and test requirements for facility modifications made at Hatch to protect against degraded grid voltage damaging safety related equipment.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate fundings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For futher details with respect to this action, see (1) the application for amendments dated July 22, 1977, as supplemented October 9, 1980, May 21, 1981, October 2, 1981, December 2, 1981, and January 26, 1982, (2) Amendments Nos. 88 and 27 to licenses Nos. DPR–57 and NPF–5, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission. Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 6th day May 1982.

For The Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Brand No. 4, Division of Licensing.

[FR Doc 82–13089 Filed 5–12–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–366]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. NPF–5, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which revised Technical Specifications (TSs) for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 2 (the facility) located in Appling County, Georgia. The amendment is effective as of the date of issuance.

This amendment revises the TSs to enable operation of the facility after the Cycle 3 Reload, at licensed power.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 11, 1982, (2) Amendment No. 28 to License No. NPF–5, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 6th day of May 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 82–13090 Filed 5–12–82; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–321 and 50–366]

Georgia Power Co., et al. (Edwin I. Hatch Nuclear Plant, Units 1 and 2); Exemption

I

The Georgia Power Company (the licensee) and three other co-owners are the holders of Facility Operating Licenses Nos. DPR–57 and NPF–5 which authorize operation of the Edwin I. Hatch Nuclear Plant, Units 1 and 2 (Hatch or the facilities). These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are boiling water reactors located at the licensee's site in Appling County, Georgia.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these 15 subsections, III.G, is the subject of this Exemption. Subsection III.G specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3).

Section 50.48(c) required completion of all modifications to meet the provisions of Appendix R within a specified time from the effective date of this fire protection rule, February 17, 1981, except for modifications to provide alternative safe shutdown capability. These latter modifications (III.G.3)

require NRC review and approval. Hence, § 50.48(c) requires their completion within a certain time after NRC approval. The date for submittal of design descriptions of any modifications to provide alternative safe shutdown capability was specified as March 19, 1981.

By letter dated March 19, 1981, as amended March 3, 1982, Georgia Power Company requested exemptions from 10 CFR 50.48(c) with respect to the requirements of Section III.G of Appendix R as follows:

(1) Extend from March 19, 1981, to July 1, 1982, the date for submittal of plans and schedules to achieve compliance with III.G.2 required by § 50.48(c)(5);

(2) Extend from March 19, 1981, to July 1, 1982, the date for filing additional exemptions from Section III.G pursuant to §§ 50.12(a) and 50.48(c)(6);

(3) Extend from March 19, 1981, to July 1, 1982, the date for submittal of design descriptions of alternative or dedicated shutdown systems to comply with Section III.G.3, if such are necessary; and

(4) Extend from February 17, 1981, to July 1, 1982, the date from which the installation schedules established in § 50.48(c)(2) and (3) are calculated.

When this fire protection rule was approved by the Commission, it was understood that the time required for each licensee to reexamine those previously-approved configurations at its plant to determine whether they meet the requirements of Section III.G of Appendix R to 10 CFR 50 was not well known and would vary depending upon the degree of conformance. For each item of non-conformance that was found, a fire hazards analysis had to be performed to determine whether the existing configuration provided sufficient fire protection. If it did, a basis had to be formulated for an exemption request. If it did not, modifications to either meet the requirements of Appendix R or to provide some other acceptable configuration, that could be justified for an exemption, had to be designed. Where fire protection features alone could not ensure protection of safe shutdown capability, alternative safe shutdown capability had to be designed as required by Section III.G.3 of Appendix R. Depending upon the extensiveness and number of the areas involved, the time required for this reexamination, reanalysis and redesign could vary from a few months to a year or more. The Commission decided, however, to require one, short-term date for all licensees in the interest of ensuring a best-effort, expedited completion of compliance with the fire protection rule, recognizing that there would be a number of licensees who could not meet these time restraints but who could then request appropriate relief through the exemption process. Licensees for 44 of the 72 plants to which Appendix R applies (plants with an operating license issued prior to January 1, 1979) have requested such schedular relief.

The licensees for the remaining 28 plants made submittals to meet the schedular requirements of § 50.48(c). All of these submittals, however, were deficient in some respects. In general, much of the information requested in a generic letter (81–12) dated February 20, 1981, to the licensees of all 72 plants, was not provided. Therefore, additional time is being used to complete those submittals also.

III

Prior to the issuance of Appendix R, the Hatch Plant had been reviewed against the criteria of Appendix A to the Branch Technical Position 9.5–1 (BTP 9.5–1). The BTP 9.5–1 was developed to resolve the lessons learned from the fire at Browns Ferry Nuclear Plant. It is broader in scope than Appendix R, formed the nucleus of the criteria developed further in Appendix R and in its present, revised form constitutes the section of the Standard Review Plan used for the review of applications for construction permits and operating licenses of new plants. The review was completed by the NRC staff and its fire protection consultants and a Fire Protection Safety Evaluation (FPSER) was issued dated October 4, 1978. The FPSER supported the required modifications to be made to the Hatch Units' physical features, systems, and administrative controls to meet the criteria of Appendix A to BTP 9.5–1. All of these modifications have been completed. Therefore, the Hatch Units have upgraded to a high degree of fire protection already and the extensive reassessment involved in the request for additional time is to quantify, in detail, the differences between what was recently approved and the specific requirements of Section III.G to Appendix R of 10 CFR Part 50.

Based on the above considerations we find that the licensee has completed a substantial part of the fire protection features at Hatch Units 1 and 2 in conformance with the requirements of the fire protection rule and it applying significant effort to complete the reassessment of any remaining modifications which might be necessary for strict conformance with Section III.G. We find that because of the already-completed upgrading of these facilities, there is no undue risk to the health and safety of the public involved with continued operation until the completion of this reassessment on July 1, 1982. Therefore, an exemption should be granted to allow such time for completion. However, because we have found that most submittals of this reanalysis to date from other licensees have not been complete; that is, not all of the information requested by generic letter 81–12 dated February 20, 1981, was provided, we are adding a condition to this Exemption that requires all such information to be submitted by the date granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemptions with respect to the requirements of Section III.G of Appendix R, to 10 CFR Part 50:

(1) The date, March 19, 1981, for submittal of plans and schedules to achieve compliance as required by § 50.48(c)(5) is extended to July 1, 1982;

(2) The date, March 19, 1981, for filing exemption requests pursuant to § 50.48(c)(6) which includes a tolling provision is extended to July 1, 1982;

(3) The date, March 19, 1981, for submittal of design descriptions of alternative or dedicated shutdown systems to comply with Section III.G.3 as required by § 50.48(c)(5) is extended to July 1, 1982; and

(4) The date, February 17, 1981, from which the installation schedules established in § 50.48(c) (2) and (3) are calculated, is extended to July 1, 1982;

Provided the following conditions are met:

Request for exemption pursuant to § 50.48(c)(6) must inlcude:

(a) A concise statement of the extent of the exemption;

(b) A concise description of the proposed alternative design features related to assuring post-fire shutdown capability; and

(c) A sound technical basis that justifies the proposed alternative in terms of protection afforded to post-fire shutdown capability, degree of enhancement in fire safety by full compliance with III.G requirements, or the detriment to plant safety incurred by full compliance with III.G. A simple statement that the feature for which the exemption is requested was previously approved by the NRC staff is not sufficient. A simple assertion that in the licensee's judgment the feature for which the exemption is requested is adequate fire protection is not sufficient.

(2) The design descriptions of alternative or dedicated shutdown systems to comply with Section III.G.3, as required by § 50.48(c)(5) shall include a point-by-point response to

each item in Section 8 of Enclosure 1 to generic letter 81–12 dated February 20, 1981, and to each item in Enclosure 2 to generic letter 81–12 dated February 20, 1981.

If the licensee does not meet the above conditions, the licensee will be found in violation of 10 CFR 50.48(c) even though the submittal may be made within the time limit granted by the Exemption. If such a violation occurs, imposition of a civil penalty will be considered under Section 234 of the Atomic Energy Act, as amended. Such a violation will be a continuing one beginning with the date set in the Exemption for submittal and terminating when all inadequacies are corrected.

A delay in the determination of inadequacy by the NRC staff, caused by the workload associated with reviewing all of the submittals falling due near the same time, will not relieve the licensee of the responsibility for completeness of the submittal, nor will such delay cause any penalty that may be imposed to be mitigated.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 3rd day of May 1982.

For The Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc 82–13091 Filed 5–12–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–315 and 50–316]

Indiana & Michigan Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Facility Operating License No. DPR–58, and Amendment No. 40 to Facility Operating License No. DPR–74 issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

These amendments relocate the radiological environmental Technical Specifications into a separate section Appendix B Part I—Radiological and replace the non-radiological environmental Technical Specifications with Appendix B Part II—non-radiological, Environmental Protection Plan. Remaining requirements of Appendix B are now called Part III non Water Quality—Non Radiological.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 4, 1981, (2) Amendment Nos. 54 and 40 to License Nos. DPR–58 and DPR–74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 6th day of May, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–13092 Filed 5–12–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–374]

Commonwealth Edison Co.; La Salle County Station, Unit No. 2; Order Extending Construction Completion Date

Commonwealth Edison Company is the holder of Construction Permit No. CPPR–100, issued by the Atomic Energy Commission [1] on September 10, 1973, for construction of La Salle County Station, Unit No. 2. This facility is presently under construction at the applicant's site in Brookfield Township, La Salle County, Illinois.

On March 2, 1982, the applicant requested an extension of the latest completion dates because construction has been delayed by the following events beyond its control:

1. Concentration of resources on completion of La Salle County Station, Unit 1 construction and testing.
2. Unforeseen new and/or replacement equipment delivery difficulties.
3. Accommodation of additional NRC criteria related to preoperational testing.
4. Uncertainty as to expansion of NRC requirements.

This action involves no significant hazards consideration; good cause has been shown for the delays; and the requested extension is for a reasonable period. The staff's conclusions are set forth in the staff's evaluation of the request for extension.

The Commission has determined that this action will not result in any significant environmental impact and, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement, or negative declaration and environmental impact appraisal, need not be prepared in connection with this action.

The NRC staff evaluation of the request for extension of the construction permit is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

It is hereby ordered that the latest date for Construction Permit No. CPPR–100 is extended from March 31, 1982 to September 30, 1983.

Date of Issuance: May 3, 1982.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82–13087 Filed 5–12–82; 8:45 am]

BILLING CODE 7590–01–M

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[1] Effective January 19, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

[Docket No. 50-416]

Mississippi Power & Light Co.; Middle South Energy, Inc.; South Mississippi Electric Power Association; Grand Gulf Nuclear Station, Unit No. 1; Order Extending Construction Completion Date

Mississippi Power and Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association are the holders of Construction Permit No. CPPR-118 issued by the Atomic Energy Commission[1] on September 4, 1974 and extended on October 30, 1979, for the construction of the Grand Gulf Nuclear Station, Unit No. 1, which is presently under construction at the Middle South Energy, Inc. site in Claiborne County, Mississippi. On January 8, 1982, Mississippi Power and Light Company, on behalf of itself and as agent for Middle South Energy, Inc. and South Mississippi Electric Power Association, requested an extension of the construction completion date for Grand Gulf, Unit No. 1 because construction has been delayed due to the following factors:

1. Problems with pre-operational testing.
2. Final inspection and quality assurance work.
3. Assuring that all applicable NRC requirements are met, including those resulting from the TMI-2 accident.

This action involves no significant hazards consideration; good cause has been shown for the delays; and the requested extension is for a reasonable period. The staff's conclusions are set forth in the staff's evaluation of the request for extension.

The Commission has determined that this action will not result in any significant environmental impact and, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement, or negative declaration and environmental impact appraisal, need not be prepared in connection with this action.

The NRC staff evaluation of the request for extension of the construction permit is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Hinds Jr. College, George M. McLendor Library, Raymond, Mississippi 39154.

It is hereby ordered that the latest completion date for CPPR-118 is extended from March 1, 1982 to November 1, 1982.

Date of Issuance: May 3, 1982.

[1] Effective January 19, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and Permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-13093 Filed 5-12-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co. (Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2); Exemption

I

The Northern States Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-42 and DPR-60 which authorize operation of the Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2. These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises two pressurized water reactors at the licensee's site located in Goodhue, Minnesota.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) establihsed the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. Two of these fifteen subsections, III.G. and III.J, are the subject of this exemption request. Subsection III.G. specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, is required (III.G.3.).

Subsection III.J specifies detailed requirements for providing emergency lighting in all areas needed for operation of safe shutdown equipment.

Section 50.48(c) requires completion of all modificaitons to meet the provisions of Appendix R within a specified time from the effective date of this fire protection rule, February 17, 1981, except for modifications to provide alternative safe shutdown capability. These latter modifications (III.G.3.) require NRC review and approval. Hence, § 50.48(c) requires their completion within a certain time after NRC approval. The date for submittal of design descriptions of any modifications to provide alternative safe shutdown capability was specified as March 19, 1981.

Section 50.48(c)(3) specifies the installation schedule of those fire protection features such as emergency lighting (III.J) that require a plant shutdown to complete the installation. The installation schedule in § 50.48(c)(3) requires the completion of the installation of such fire protection features during the first refueling outage commencing after 180 days from the effective date of Appendix R (February 17, 1981). Hence, Section 50.48(c)(3) requires the licensee to complete the installation of the emergency lighting (III.J) during the first refueling outage commencing after August 17, 1981 for each unit.

By letters dated March 13, March 19, November 16, and December 1, 1981, and February 5, 1982, Northern States Power Company requested exemptions from 10 CFR 50.48(c) with respect to the requirements of Sections III.G and III.J of Appendix R as follows:

Extend the date in paragraph (c)(5) for submitting plans and schedules for meeting the provisions of paragraphs (c)(2), (c)(3), and (c)(4) with respect to the requirements of Section III.G of Appendix R, and for submitting design descriptions of modifications needed to satisfy Section III.G.3 of Appendix R, from March 19, 1981 to July 1, 1982.

(2) Extend the implementation date in paragraph (c)(2) for installation of modifications required by Appendix R, Section III.G.2, that do not require prior NRC approval or plant shutdown, from nine months after February 17, 1981 to nine months after June 1, 1982.

(3) Extend the implementation date in paragaph (c)(3) for installation of modifications required by Appendix R, Section III.G.2, that do not require prior NRC approval, but require plant shutdown, from before startup after the first refueling or extended outage commencing 180 days or more after February 17, 1981, to before startup after the first refueling or extended outage commencing 180 days or more after June 1, 1982.

(4) Extend the implementation date in paragraph (c)(3) for modification required by Apppendix R, subsection III.J, that do not require prior NRC approval but requires a plant shutdown, from the first refueling shutdown or extended outage commencing after 180 days from the effective date of Appendix R for each unit to the refueling outage scheduled for autumn of 1982 for Unit 1 and scheduled for spring of 1982 for Unit 2.

When this Fire Protection Rule was approved by the Commission, it was understood that the time required for each licensee to re-examine those previously-approved configurations at its plant to determine whether they meet the requirements of Section III.G of Appendix R to 10 CFR 50, was not well known and would vary depending upon the degree of conformance. For each item of nonconformance that was found, a fire hazards analysis had to be performed to determine whether the existing configuration provided sufficient fire protection. If it did, a basis had to be formulated for an exemption request. If it did not, modifications to either meet the requirements of Appendix R or to provide some other acceptable configuration, that could be justified for an exemption, had to be designed. Where fire protection features alone could not ensure protection of safe shutdown capability, alternative safe shutdown capability had to be designed as required by Section III.G.3 of Appendix R. Depending upon the extensiveness and number of the areas involved, the time required for this re-examination, reanalysis and redesign could vary from a few months to a year or more. The Commission decided, however, to require one, short-term date for all licensees in the interest of ensuring a best-effort, expedited completion of compliance with the Fire Protection Rule, recognizing that there would be a number of licensees who could not meet these time restraints but who could then request appropriate relief through the exemption process. Licensees for 44 of the 72 plants to which Appendix R applies (plants with an operating license issued prior to January 1, 1979) have requested such schedular relief.

The licensees for the remaining 28 plants made submittals to meet the schedular requirements of 50.48(c). All of these submittals, however, were deficient in some respects. In general, much of the information requested in a generic letter (81–12) dated February 20, 1981, to the licensees of all 72 plants, was not provided. Therefore, additional time is being used to complete those submittals also.

III

Prior to the issuance of Appendix R, the Prairie Island Units had been reviewed against the criteria of Appendix A to the Branch Technical Position 9.5–1 (BTP 9.5–1). The BTP 9.5–1 was developed to resolve the lessons learned from the fire at Browns Ferry Nuclear Plant. It is broader in scope than Appendix R, and formed the nucleus of the criteria developed further in Appendix R. In its present revised form the BTP 9.5–1 constitutes the section of the Standard Review Plan used for the review of applications for construction permits and operating licenses of new plants. The review was completed by the NRC staff and its fire protection consultant and a Fire Protection Safety Evaluation (FPSER) was issued. A few items remained unresolved. Further discourse between the licensee and the NRC staff resulted in resolution of all of these items as documented in two supplements [1] to the FPSER except for the alternate shutdown capabilities which is the subject of this exemption. The FPSER supported the issuance of amendments to the operating licenses of the Prairie Island Units [2] which required modifications to be made to plant physical features, systems, and administrative controls to meet the criteria of Appendix A to BTP 9.5–1. All of these modifications have been completed. Therefore, the Prairie Island Units have been upgraded to a high degree of fire protection already and the extensive reassessment involved in this request for additional time is to quantify, in detail, the differences between what was recently approved and the specific requirements of Section III.G to Appendix R of 10 CFR 50.

By letter dated December 18, 1981, Northern States Power Company did submit for our review a Fire Protection Safe Shutdown Analysis giving plans and schedules for achieving compliance with Appendix R, Section III.G. However, after noting several information deficiencies in its submittal, the licensee requested an exemption from Section 50.48(c) to conduct a second level review of their analysis and prepare a supplement to the original submittal. The licensee also stated in the request for exemption that the additional time is needed to present a thorough and auditable process by which conformance with Section III.G of Appendix R is accomplished.

By letters dated November 16 and December 1, 1981, the licensee requested additional time for completing modifications to meet requirements of subsection III.J, emergency lighting. Subsection 50.48(c)(3) requires that these modifications be completed during the first refueling outage after August 17, 1981. The first refueling outage for Unit 1 occurred in September 1981 and for Unit 2 of the first refueling outage is planned for the spring of 1982. Therefore the exemption is requested for Unit 1 for the completion date of the emergency lighting to be during the second refueling outage after August 17, 1981. The licensee has committed to complete the modifications during the spring refueling outage for Unit 2 which is the first outage after August 17, 1981, and therefore an exemption from Subsection 50.48(c)(3) is not necessary for Unit 2. For Unit 1 a time restraint was created since the licensee is required by Subsection 50.48(c)(3) to perform the necessary engineering analysis, design, purchase and installation of necessary equipment within a period of seven months. We agree that the licensee in this instance applied a best effort and the time allowed turned out to be insufficient. In addition, portable lighting units are available for use by operators and the fire brigade members as an interim measure until completion. On this basis the staff has judged that the request for exemption for Unit 1 to allow additional time to complete the installation of emergency lighting at the refueling outage scheduled for autumn of 1982 should be granted.

Based on the above considerations, we find that the licensee has completed a substantial part of the fire protection features at Prairie Island Units 1 and 2 in conformance with the requirements of the Fire Protection Rule and is applying significant effort to complete the reassessment of any remaining modifications which might be necessary for strict conformance with Sections III.G and III.J. We find that because of the already-completed upgrading of these facilities, there is no undue risk to the health and safety of the public involved with continued operation until the completion of this reassessment on July 1, 1982. Therefore, an exemption should be granted to allow such time for completion. However, because we have found that most submittals of this reanalysis to date from other licensees have not been complete; that is, not all of the information requested by Generic Letter 81–12 dated February 20, 1981, was provided, we are adding a condition to this Exemption that requires all such information to be submitted by the date granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and

[1] SER Supplements issued by letters dated April 21, and December 29, 1980.

[2] Prairie Island Unit 1—Operating License DPR–42, Amendment 39 supported by FPSER issued September 6, 1979.

Prairie Island Unit 2—Operating License DPR–60, Amendment 33 supported by FPSER issued September 6, 1979.

hereby grants the following exemptions with respect to the requirements of Section III.G and III.J of Appendix R to 10 CFR Part 50:

(1) Extend the date in paragraph (c)(5) for submitting plans and schedules for meeting the provisions of paragraphs (c)(2), (c)(3), and (c)(4) with respect to the requirements of Section III.G of Appendix R, and for submitting design descriptions of modifications needed to satisfy Section III.G.3 of Appendix R, from March 19, 1981 to July 1, 1982.

(2) Extend the implementation date in paragraph (c)(2) for installation of modifications required by Appendix R, Section III.G.2, that do not require prior NRC approval or plant shutdown, from nine months after February 17, 1981 to nine months after June 1, 1982.

(3) Extend the implementation date in paragraph (c)(3) for installation of modifications required by Appendix R, Section III.G.2, that do not require prior NRC approval, but require plant shutdown, from before startup after the first refueling or extended outage commencing 180 days or more after February 17, 1981, to before startup after the first refueling or extended outage commencing 180 days or more after June 1, 1982.

(4) The implementation date in paragraph (c)(3) for modifications required by Appendix R Subsection III.J is extended for Unit 1 from the first refueling outage after August 17, 1981 to the second refueling outage after August 17, 1981 or an extended outage as defined in 10 CFR 50.48(c)(3) commencing more than 180 days after the date of this exemption.

Provided the following condition is met:

The design descriptions of alternative or dedicated shutdown systems to comply with Section III.G.3., as required by § 50.48(c)(5) shall include a point-by-point response to each item in Section 8 of Enclosure 1 to generic letter 81–12 dated February 20, 1981, and to each item in Enclosure 2 to Generic Letter 81–12, dated February 20, 1981.

If the licensee does not meet the above conditions, the licensee will be found in violation of 10 CFR 50.48(c) even though the submittal may be made within the time limit granted by the exemption. If such a violation occurs, impostition of a civil penalty will be considered under Section 234 of the Atomic Energy Act, as amended. Such a violation will be a continuing one beginning with the date set in the exemption for submittal and terminating when all inadequacies are corrected.

A delay in the determination of inadequacy by the staff, caused by the workload associated with reviewing all of the submittals falling due near the same time, will not relieve the licensee of the responsibility for completeness of the submittal, nor will such delay cause any penalty that may be imposed to be mitigated.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 4th day of May, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc 82–13094 Filed 5–12–82; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–277 and 50–278]

Philadelphia Electric Co., et al. (Peach Bottom Atomic Power Station, Units 2 and 3); Exemption

I

The Philadelphia Electric Company (the licensee) and three other co-owners are the holders of Facility Operating Licenses Nos. DPR–44 and DPR–56 which authorize operation of the Peach Bottom Atomic Power Station, Units 2 and 3 (Peach Bottom or the facilities). These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are boiling water reactors located at the licensee's site in York County, Pennsylvania.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these 15 subsections, III.G, is the subject of this Exemption. Subsection III.G specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3).

Section 50.48(c) required completion of all modifications to meet the provisions of Appendix R within a specified time from the effective date of this fire protection rule, February 17, 1981, except for modifcations to provide alternative safe shutdown capability. These latter modifications (III.G.3) require NRC review and approval. Hence, § 50.48(c) requires their completion within a certain time after NRC approval. The date for submittal of design descriptions of any modifications to provide alternative safe shutdown capability was specified as March 19, 1981.

By letter dated March 20, 1981, as amended February 18, 1982, Philadelphia Electric Company requested exemptions from 10 CFR 50.48(c) with respect to the requirements of Section III.G of Appendix R as follows:

(1) Extend from March 19, 1981, to June 30, 1982, the date for submittal of plans and schedules to achieve compliance with III.G.2 required by § 50.48(c)(5);

(2) Extend from March 19, 1981, to June 30, 1982, the date for filing additional exemptions from Section III.G pursuant to §§ 50.12(a) and 50.48(c)(6);

(3) Extend from March 19, 1981, to June 30, 1982, the date for submittal of design descriptions of alternative or dedicated shutdown systems to comply with Section III.G.3, if such are necessary; and

(4) Extend from February 17, 1981, to June 30, 1982, the date from which the installation schedules established in § 50.48(c)(2) and (3) are calculated.

When this fire protection rule was approved by the Commission, it was understood that the time required for each licensee to reexamine those previously-approved configurations at its plant to determine whether they meet the requirements of Section III.G of Appendix R to 10 CFR 50 was not well known and would vary depending upon the degree of conformance. For each item of nonconformance that was found, a fire hazards analysis had to be performed to determine whether the existing configuration provided sufficient fire protection. If it did, a basis had to be formulated for an exemption request. If it did not, modifications to either meet the requirements of Appendix R or to provide some other acceptable configuration, that could be justified for an exemption, had to be designed. Where the fire protection features alone could not ensure protection of safe shutdown capability, alternative safe shutdown capability had to be designed as required by Section III.G.3 of Appendix R. Depending upon the extensiveness and number of the areas involved, the time required for this reexamination, reanalysis and redesign could vary from a few months to a year or more. The

Commission decided, however, to require one, short-term date for all licensees in the interest of ensuring a best-effort, expedited completion of compliance with the fire protection rule, recognizing that there would be a number of licensees who could not meet these time restraints but who could then request appropriate relief through the exemption process. Licensees for 44 of the 72 plants to which Appendix R applies (plants with an operating license issued prior to January 1, 1979) have requested such schedular relief.

The licensees for the remaining 28 plants made submittals to meet the schedular requirements of § 50.48(c). All of these submittals, however, where deficient in some respects. In general, much of the information requested in a generic letter (81–12) dated February 20, 1981, to the licensees of all 72 plants, was not provided. Therefore, additional time is being used to complete those submittals also.

III

Prior to the issuance of Appendix R, the Peach Bottom Units had been reviewed against the criteria of Appendix A to the Branch Technical Position 9.5–1 (BTP 9.5–1). The BTP 9.5–1 was developed to resolve the lessons learned from the fire at Browns Ferry Nuclear Plant. It is broader in scope than Appendix R, formed the nucleus of the criteria developed further in Appendix R and in its present, revised form constitutes the section of the Standard Review Plan used for the review of applications for construction permits and operating licenses of new plants. The review was completed by the NRC staff and its fire protection consultants and a Fire Protection Safety Evaluation (FPSER) was issued with License Amendments Nos. 53 dated May 23, 1979. A few items remained unresolved. Further discourse between the licensee and the NRC staff resulted in resolution of these items as documented in four supplements [1] to the FPSER. The FPSER and its supplements supported the issuance of amendments to the operating licenses of the Peach Bottom Units which required modification to be made to plant physical features, systems, and administrative controls to meet the criteria of Appendix A to BTP 9.5–1. All of these modifications have been completed. Therefore, the Peach Bottom Units have been upgraded to a high degree of fire protection already and the extensive reassessment involved in the request for additional time is to quantify, in detail, the differences between what was recently approved and the specific requirements of section III.G to Appendix R of 10 CFR Part 50.

Based on the above considerations, we find that the licensee has completed a substantial part of the fire protection features at Peach Bottom Units 2 and 3 in conformance with the requirements of the fire protection rule and is applying significant effort to complete the reassessment of any remaining modifications which might be necessary for strict conformance with Section III.G. We find that because of the already-completed upgrading of these facilities, there is no undue risk to the health and safety of the public involved with continued operation until the completion of this reassessment on June 30, 1982. Therefore, an exemption should be granted to allow such time for completion. However, because we have found that most submittals of this reanalysis to date from other licensees have not been complete; that is, not all of the information requested by generic letter 81–12 dated February 20, 1981, was provided, we are adding a condition to this Exemption that requires all such information to be submitted by the date granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemptions with respect to the requirements of Section III.G of Appendix R to 10 CFR Part 50:

(1) The date, March 19, 1981, for submittal of plans and schedules to achieve compliance as required by § 50.48(c)(5) is extended to June 30, 1982;

(2) The date, March 19, 1981, for filing exemption requests pursuant to § 50.48(c)(6) which includes a tolling provision is extended to June 30, 1982;

(3) The date, March 19, 1981, for submittal of design descriptions of alternative or dedicated shutdown systems to comply with Section III.G.3 as required by § 50.48(c)(5) is extended to June 30, 1982; and

(4) The date, February 17, 1981, from which the installation schedules established in § 50.48(c) (2) and (3) are calculated, is extended to June 30, 1982;

Provided the following conditions are met:

(1) Requests for exemption pursuant to § 50.48(c) must include:

(a) A concise statement of the extent of the exemption;

(b) A concise description of the proposed alternative design features related to assuring post-fire shutdown capability; and

(c) A sound technical basis that justifies the proposed alternative in terms of protection afforded to post-fire shutdown capability, degree of enhancement in fire safety by full compliance with III.G requirements, or the detriment to plant safety incurred by full compliance with III.G. A simple statement that the feature for which the exemption is requested was previously approved by the NRC staff is not sufficient. A simple assertion that in the licensee's judgment the feature for which the exemption is requested is adequate fire protection is not sufficient.

(2) The design descriptions of alternative or dedicated shutdown systems to comply with Section III.G.3, as required by § 50.48(c)(5) shall include a point-by-point response to each item in Section 8 of Enclosure 1 to generic letter 81–12 dated February 20, 1981, and to each item in Enclosure 2 to generic letter 81–12, dated February 20, 1981.

If the licensee does not meet the above conditions, the licensee will be found in violation of 10 CFR 50.48(c) even though the submittal may be made within the time limit granted by the Exemption. If such a violation occurs, imposition of a civil penalty will be considered under Section 234 of the Atomic Energy Act, as amended. Such a violation will be a continuing one beginning with the date set in the Exemption for submittal and terminating when all inadequacies are corrected.

A delay in the determination of inadequacy by the NRC staff, caused by the workload associated with reviewing all of the submittals falling due near the same time, will not relieve the licensee of the responsibility for completeness of the submittal, nor will such delay cause any penalty that may be imposed to be mitigated.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 4th day of May 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82–13095 Filed 5–12–82; 8:45 am]

BILLING CODE 7590–01–M

[1] Peach Bottom Units 2 and 3—FPSER Supplements:

No. 1—August 14, 1980.

No. 2—September 15, 1980.

No. 3—October 10, 1980.

No. 4—November 24, 1980.

[Docket No. 50-344]

Portland General Electric Co., the City of Eugene, Oreg., Pacific Power & Light Co. (Trojan Nuclear Plant); Exemption

I

Portland General Electric Company, the City of Eugene, Oregon and Pacific Power & Light Company (the licensees) are the holders of Facility Operating License No. NPF-1 which authorizes the operation of the Trojan Nuclear Plant (the facility) at reactor power levels not in excess of 3411 megawatts thermal (rated power). The facility consists of a Westinghouse Electric Corporation designed pressurized water reactor (PWR) located at the licensees' site in Columbia County, Oregon.

The license is subject to all rules and regulations of the Commission.

III

10 CFR 50.54(q) requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of § 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.1 of Appendix E requires each licensee to conduct a full-scale emergency preparedness exercise annually, unless the State and local governments in the plume exposure pathway emergency planning zone have participated in a full-scale exercise during the annual period (such participation could be in conjunction with another nuclear power plant).

By letter dated January 13, 1982, Portland General Electric Company seeks, on its own behalf and at the request of the State of Washington, the State of Oregon, Cowlitz County, Washington, and Columbia County, Oregon, an exemption from the schedular requirements of Section IV.F.1 of Appendix E. The licensee requests that it be granted an exemption on a one-time basis to allow the next full-scale exercise to be held during the week of November 15–19, 1982.

The licensee states that the request comes as a result of financial cutbacks and manpower limitations in the state and local agencies, and that subsequent full-scale exercises would be conducted annually in the fall of each year.

In a letter dated February 1, 1982, the State of Washington endorsed the licensee's request, stating that Washington has been involved in two comprehensive tests of its Trojan emergency response plan and procedures in the previous calendar year. In addition, Washington will be preparing, during the spring and summer months, for the first major exercise of another nuclear plant's response plan. Therefore, Washington states that its overall response capability will be continuously upgraded during the proposed Trojan exercise extension.

The last full-scale exercise for Trojan was conducted on March 4, 1981. Two additional exercises were conducted on November 17 and 19, 1981. These exercises (not full-scale) tested the adequacy of the licensees' off-site interfaces at the Emergency Operations Facility (EOF) that included communications, dose assessment, and off-site monitoring. These drills were observed by the Federal Emergency Management Agency, and involved licensee, state and county emergency response personnel. In additon, the licensees have agreed to conduct an additional small-scale exercise (on-site only) within 30 days of resuming power operation (the Trojan plant is currently undergoing refueling and maintenance and is expected to resume operation in early July 1982). This on-site exercise will test all of the major on-site emergency preparedness functions, including off-site notifications and those EOF functions not tested during the November 1981 exercises.

In consideration of the special circumstances existing in the State of Washington, the fact that two additional Trojan exercises were conducted on November 17 and 19, 1981, and particularly considering the additional on site exercise agreed to by the licensees, we conclude that the licensees' request to defer the next full-scale exercise until the week of November 15–19, 1982 is reasonable and that the granting of the request will not significantly affect the state of emergency preparedness at Trojan. We conclude therefore that licensees' request for exemption should be granted, subject to the on-site small-scale exercise that licensees have agreed to conduct within 30 days of resumption of power operation after the current maintenance and refueling outage.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by licensees' letter of January 13, 1982, as discussed above, is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The requested exemption is hereby granted, modified and conditioned as follows:

In order to allow for minor schedule changes, the next full-scale emergency preparedness exercise shall be conducted by not later than November 30, 1982.

The licensees shall conduct a small-scale exercise (on-site only) by not later than 30 days after resuming power operation following the spring 1982 refueling outage, as agreed to by licensees. This exercise shall test all of the major on-site emergency preparedness functions, including off-site notifications, and those EOF functions not tested during the November 1981 exercises.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland this 5th day of May, 1982.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Acting Director Division of Licensing.

[FR Doc. 82-13096 Filed 5-12-82: 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260 and 50-296]

Tennessee Valley Authority, Browns Ferry Nuclear Plant, Units 1, 2 and 3; Exemption

I

The Tennessee Valley Authority (the licensee) is the holder of Facility Operating License Nos. DPR-33, DPR-52 and DPR-68 which authorize the operation of the Browns Ferry Nuclear Plant, Units 1, 2 and 3 at steady state reactor power levels not in excess of 3293 megawatts thermal (rated power). The facility consists of three boiling water reactors located at the licensee's site in Limestone County, Alabama. The licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48(c) and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains fifteen

subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protectin features at a nuclear power plant. One of these fifteen subsections, III.G., is the subject of this Exemption. Subsection III.G. specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3).

Section 50.48(c) required completion of all modifications to meet the provisions of Appendix R within a specified time from the effective date of this fire protection rule, February 17, 1981, except for modifications to provide alternative safe shutdown capability. These latter modifications (III.G.3) require NRC review and approval. Hence, § 50.48(c) requires their completion within a certain time after NRC approval. The date for submittal of design descriptions of any modifications to provide alternative safe shutdown capability was specified as March 19, 1981.

By letter dated March 18, 1981, as amended May 11, 1981, and April 22, 1982, Tennessee Valley Authority requested exemptions from 10 CFR 50.48(c) with respect to the requirements of Section III.G of Appendix R as follows:

> The modifications made during the recovery from the March 22, 1975 fire were intended to provide protection against the loss of more than one division of safety equipment in the event of a fire. The modifications included physical moving of certain electrical conduits, the application of a fire resistant cable coating, and the addition of extensive fire protection systems. These changes and the plant's original separation criteria for Class IE circuits, as outlined in our Final Safety Analysis Report, are consistent with the philosophy outlined in Section III.G.1. However, the design was never intended to satisfy the stringent separation criteria outlined in Section III.G.2. This is not to suggest that the design is inadequate, only that the level of compliance with Section III.G.2. is unknown. We therefore, commit to performing an analysis to determine if further modifications would be needed in regard to separation of safe shutdown capabilities to comply with the requirements of Section III.G.2.
>
> 10 CFR 50.48(c)(5) requires that TVA submit plans and schedules for modifications dictated by Section III.G.3., if such are necessary. We request an extension until June 1, 1982 to allow us time to complete the analysis; and for any necessary modifications, to prepare plans and schedules that would not be detrimental to overall plant safety.

TVA's letter of April 22, 1982 requested a further extension to June 30, 1982.

When this Fire Protection Rule was approved by the Commission, it was understood that the time required for each licensee to re-examine those previously-approved configurations at its plant to determine whether they meet the requirements of Section III.G of Appendix R to 10 CFR Part 50 was not well known and would vary depending upon the degree of conformance. For each item of non-conformance that was found, a fire hazards analysis had to be performed to determine whether the existing configuration provided sufficent fire protection. If it did, a basis had to be formulated for an exemption request. If it did not, modifications to either meet the requirements of Appendix R or to provide some other acceptable configuration, that could be justified for an exemption, had to be designed. Where fire protection features alone could not ensure protection of safe shutdown capability, alternative safe shutdown capability had to be designed as required by Section III.G.3. of Appendix R. Depending upon the extensiveness and number of areas involved, the time required for this re-examination, reanalysis and redesign could vary from a few months to a year or more. The Commission decided, however, to require one, short-term date for all licensees in the interest of ensuring a best-effort, expedited completion of compliance with the Fire Protection Rule, recognizing that there would be a number of licensees who could not meet these time restraints but who could then request appropriate relief through the exemption process. Licensees for 44 of the 72 plants to which Appendix R applies (plants with an operating license issued prior to January 1, 1979) have requested such schedular relief.

The licensees for the remaining 28 plants made submittals to meet the schedular requirements of § 50.48(c). All of these submittals, however, were deficient in some respects. In general, much of the information requested in a generic letter (81–12) dated February 20, 1981, to the licensees of all 72 plants, was not provided. Therefore, additional time is being used to complete those submittals also.

On March 22, 1975, a fire at the Browns Ferry Nuclear Plant caused a shutdown of Units 1 and 2. At the time, Unit 3 was still under construction and had not started operation. As a result of the fire, an NRC review program was developed to evaluate NRC policies, procedures and technical requirements with the objective of upgrading fire protection at all nuclear plants. This special review group recommended numerous changes to the design of the Browns Ferry Plant with respect to fire detection and suppression, fire protection systems, training programs, maintenance and operating procedures, etc. These recommendations were adopted at Browns Ferry as part of the restoration program. The plant modifications were intended to provide protection against the loss of more than one division of safety equipment in the event of a fire—which is also the intent of Section III.G of Appendix R. The modifications included physical moving of many electrical conduits, the application of a fire resistant coating to all cables and the addition of extensive fire detection and suppression systems.

While the restoration program at Browns Ferry was still underway, the lessons learned from the fire were developed into an extensive list of fire protection criteria, which in August 1976 were published as Appendix A to the Branch Technical Position 9.5–1 (BTP 9.5–1). Starting in 1977, all operating nuclear plants were evaluated with respect to these new fire protection criteria. The information and experience gained from this reevaluation—as well as the results from NRC research programs resulted in the development of the revised criteria in Appendix R.

As discussed in NUREG–0061 ("Safety Evaluation Report Related to Operation of Browns Ferry Units 1 and 2 Following the March 22, 1975 Fire"), issued March 1976, the modifications made at Browns Ferry brought this facility into full compliance with the staff's fire protection criteria at the time. Therefore, the Browns Ferry Nuclear Plant has been upgraded to a high degree of fire protection already. Since the revised criteria in Appendix R requires an extensive reassessment of the plant design, TVA's request for additional time to quantify, in detail, the differences between what was recently approved and the specific requirements of Section III.G to Appendix R of 10 CFR Part 50 is justified.

Based on the above considerations, we find that the licensee has completed a substantial part of the fire protection features at Browns Ferry in conformance with the requirements of the Fire Protection Rule and is applying significant effort to complete the reassessment of any remaining modifications which might be necessary for strict conformance with Section III.G. We find that because of the already completed upgrading of these facilities, there is no undue risk to the health and safety of the public involved with continued operation until the

completion of this reassessment on June 30, 1982. Therefore, an exemption should be granted to allow such time for completion. However, because we have found that most submittals of this reanalysis to date from other licensees have not been complete; that is, not all of the information requested by Generic Letter 81–12 dated February 20, 1981, was provided, we are adding a condition to this Exemption that requires all such information to be submitted by the date granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemptions with respect to the requirements of Section III.G of Appendix R to 10 CFR Part 50:

(1) The date, March 19, 1981, for submittal of plans and schedules to achieve compliance as required by § 50.48(c)(5) is extended to June 30, 1982;

(2) The date, March 19, 1981, for filing exemption requests pursuant to § 50.48(c)(6) which includes a tolling provision is extended to June 30, 1982.

(3) The date, March 19, 1981, for submittal of design descriptions of alternative or dedicated shutdown systems to comply with Section III.G.3, as required by § 50.48(c)(5) is extended to June 30, 1982; and

(4) The date, February 17, 1981, from which the installation schedules established in § 50.48(c) (2) and (3) are calculated, is extended to June 30, 1982;

Provided the following conditions are met:

(1) Requests for exemption pursuant to § 50.48(c)(6) must include:

(a) A concise statement of the extent of the exemption;

(b) A concise description of the proposed alternative design features related to assuring post-fire shutdown capability; and

(c) A sound technical basis that justifies the proposed alternative in terms of protection afforded to post-fire shutdown capability, degree of enhancement in fire safety by full compliance with III.G requirements, or the detriment to plant safety incurred by full compliance with III.G. A simple statement that the feature for which the exemption is requested was previously approved by the staff is not sufficient. A simple assertion that in the licensee's judgment the feature for which the exemption is requested is adequate fire protection is not sufficient.

(2) The design descriptions of alternative or dedicated shutdown systems to comply with Subsection III.G.3., as required by § 50.48(c)(5) shall include a point-by-point response to each item in Section 8 of Enclosure 1 to generic letter 81–12 dated February 20, 1981, and to each item in Enclosure 2 to generic letter 81–12, dated February 20, 1981.

If the licensee does not meet the above conditions, the licensee will be found in violation of 10 CFR 50.48(c) even though the submittal may be made within the time limit granted by the exemption. If such a violation occurs, imposition of a civil penalty will be considered under Section 234 of the Atomic Energy Act, as amended. Such a violation will be a continuing one beginning with the date set in the exemption for submittal and terminating when all inadequacies are corrected.

A delay in the determination of inadequacy by the staff, caused by the workload associated with reviewing all of the submittals falling due near the same time, will not relieve the licensee of the responsibility for completeness of the submittal, nor will such delay cause any penalty that may be imposed to be mitigated.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 7th day of May 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82–13097 Filed 5–12–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–346]

The Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Granting Relief From ASME Code Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to The Toledo Edison Company and The Cleveland Electric Illuminating Company, which revised the Inservice Inspection program for the Davis-Bessee Nuclear Power Station, Unit No. 1, located in Ottawa County, Ohio. The ASME Code requirements are incorporated by reference into the Commission's Rules and Regulations in 10 CFR Part 50. The relief is effective as of the date of issuance.

This action provides relief from performing various Code required inspections of welds, components and bolting.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief and accompanying Safety Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the letters from The Toledo Edison Company dated May 15, 1980, December 15, 1980, March 31, 1981, June 10, 1981, and February 16, 1982, (2) the letter to The Toledo Edison Company dated May 5, 1982, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the William Carlson Library, University of Toledo, 2801 Bancroft Avenue, Toledo, Ohio. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1982.

For The Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82–13098 Filed 5–12–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–339]

Virginia Electric and Power Co.; issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. NPF–7 issued to the Virginia Electric and Power

Company (the licensee) for operation of the North Anna Power Station, Unit No. 2 (the facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment revises the time required for the licensee to implement modifications specified in License Condition 2.C.(10) regarding secondary protection of containment electrical penetrations. The approved extension in time from the first refueling outage to the second refueling outage is due to the impact of numerous NRC required actions all required to be completed within the physical contraints of the electrical penetration area during the first refueling outage. The amendment also revises the facility technical specifications by specifying Limiting Conditions of Operation for certain deenergized power circuits when containment integrity is required during operating Modes 1, 2, 3 and 4.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated Feburary 19, 1982 and March 15, 1982; (2) Amendment No. 21 to Facility Operating License No. NPF–4; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May, 1982.

For The Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–13099 Filed 5–12–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–339]

Virginia Electric & Power Co.; Issuance of Amendment To Facility Operating License

The U.S. Nulear Regulatory Commission (the Commission) has issued Amendment No. 22 to Facility Operating License No. NPF–7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Unit No. 2 (the facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment revises the time required for the licensee to complete the revised and approved stipulation of Licensing Conditions 2.C.(15)(h)(2) and 2.C.(15)(h)(4) regarding diesel generator reliability. The approved extension in time from the first refueling outage to the October 1982 Fall maintenance outage is due to the impact of equipment delivery dates with the NA–2 scheduled restart date of May 14, 1982.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) The application for amendment dated February 17, 1982 as revised March 18, 1982, (2) Amendment No. 22 to Facility Operating License No. NPF–7, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 3rd day of May, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–13100 Filed 5–12–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–339]

Virginia Electric and Power Co.; Issuance of Admendment Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 23 to Facility Operating License No. NPF–7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Unit No. 2 (the facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment revises License Condition 2.C.(4)(C) to require that narrow and wide range resistance temperature detectors be tested by the Loop Current Step Response method and be replaced at a given refueling outage only if unsatisfactory test results are observed. The revised condition further provides for an augmented preventative maintenance and surveillance control program for narrow and wide range resistance detectors until such time that long-term qualified resistance temperature detectors become available.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a signficant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant ot 10 CFR 51.5(d)(4) an environment impact statement or negative declaration and environmental impact appraisal need

not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated February 24, 1982 and March 30, 1982; (2) Amendment No. 23 to Facility Operating License No. NPF-7; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. 2055 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 4th day of May, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-13101 Filed 5-12-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant Unit Nos. 1 and 2); Exemption

I

The Wisconsin Electric Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-24 and DPR-27 which authorize operation of the Point Beach Nuclear Plant Unit Nos. 1 and 2. These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises two pressurized water reactors at the licensee's site located in Maintowoc County, Wisconsin.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. Four of these fifteen subsections, III.F, III.G, III.M and III.O, are the subjects of this exemption request. Section III.F required installation of automatic fire detection systems in all areas of the plant that contain or present an exposure fire hazard to safe shutdown or safety-related systems or components. These systems shall be capable of operating with or without offsite power. III.G specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3). Section III.M required qualification of fire barrier seal penetrations by tests that are comparable to tests used to rate fire barriers. It provided specific acceptance criteria for the qualification tests and required that penetration seal designs only use noncombustible material. Section III.O provided requirements for the reactor coolant pump oil collection system if the containment is not inerted during normal operation. These requirements included design, installation and engineering such that failure would not lead to fire during normal or design basis accident conditions and that there would be reasonable assurance that the system would withstand the Safe Shutdown Earthquake.

Section 50.48(c) required completion of all modifications to meet the provisions of Appendix R within a specified time from the effective date of this fire protection rule, February 17, 1981, except for modifications to provide alternative safe shutdown capability. These latter modifications (III.G.3) require NRC review and approval. Hence, § 50.48(c) requires their completion within a certain time after NRC approval. The date for submittal of design descriptions of any modifications to provide alternative safe shutdown capability was specified as March 19, 1981.

By letter dated March 18, 1981, as amended April 4, 1981, October 2, 1981 and January 29, 1982, Wisconsin Electric Power Company requested exemptions from 10 CFR 50.48(c) with respect to the requirements of Sections III.F, III.G, III.M and III.O of Appendix R as follows:

1. That the date in Paragraph (c)(5) for submitting plans and schedules for meeting the provisions of (c)(2), (c)(3), and (c)(4), with respect to the requirements of Section III.G of Appendix R to Part 50, be extended to June 30, 1982 and, with respect to the requirements of Section III.O of Appendix R to Part 50, be extended to January 31, 1982.

2. That the date in Paragraph (c)(5) for submitting design descriptions of modifications needed to satisfy Section III.G.3 of Appendix R be extended to June 30, 1982.

3. That the implementation date in Paragraph (c)(2) for the installation of modifications that do not require prior NRC approval of plant shut-down be extended to nine months after June 30, 1982 for modifications required by Section III.G.

That the date for implementation of modifications required by Sections III.F and III.M of Appendix R to 10 CFR 50 be extended until June 30, 1982.

4. That the implementation date in Paragraph (c)(3) for the installation of modifications that do not require NRC approval, but require plant shut-down, be extended to before start-up after the earliest of the specified events commencing 180 days or more after June 30, 1982 for modifications required by Section III.G and to before start-up after the earliest of the specified events commencing 180 days or more after January 31, 1982 for modifications required by Section III.O.

When this Fire Protection Rule was approved by the Commission, it was understood that the time required for each licensee to re-examine those previously-approved configurations at its plant to determine whether they meet the requirements of Section III.G of Appendix R to 10 CFR Part 50 was not well known and would vary depending upon the degree of conformance. For each item of nonconformance that was found, a fire hazards analysis had to be performed to determine whether the existing configuration provided sufficient fire protection. It it did, a basis had to be formulated for an exemption request. It it did not, modifications to either meet the requirements of Appendix R or to provide some other acceptable configuration, that could be justified for an exemption, had to be designed. Where fire protection features alone could not ensure protection of safe shutdown capability, alternative safe shutdown capability had to be designed as required by Section III.G.3 of Appendix R. Depending upon the extensiveness and number of the areas involved, the time required for this re-examination, reanalysis and redesign could vary from a few months to a year or more. The Commission decided, however, to require one, short-term date for all licensees in the interest of ensuring a best-effort, expedited completion of compliance with the Fire Protection Rule, recognizing that there would be a number of licensees who could not meet these time restraints but who could then request appropriate

relief through the exemption process. Licensees for 44 of the 72 plants to which Appendix R applies (plants with an operating license issued prior to January 1, 1979) have requested such schedular relief.

The licensees for the remaining 28 plants made submittals to meet the schedular requirements of § 50.48(c). All of these submittals, however, were deficient in some respects. In general, much of the information requested in a generic letter (81–12) dated February 20, 1981, to the licensees of all 72 plants, was not provided. Therefore, additional time is being used to complete those submittals also.

III

Prior to the issuance of Appendix R, the Point Beach Units had been reviewed against the criteria of Appendix A to the Branch Technical Position 9.5–1 (BTP 9.5–1). The BTP 9.5–1 was developed to resolve the lessons learned from the fire at Browns Ferry Nuclear Plant. It is broader in scope than Appendix R, formed the nucleus of the criteria developed further in Appendix R and in its present, revised form constitutes the section of the Standard Review Plan used for the review of applications for construction permits and operating licenses of new plants. The review was completed by the NRC staff and its fire protection consultants and a Fire Protection Safety Evaluation (FPSER) was issued. A few items remained unresolved. Further discourse between the licensee and the NRC staff resulted in resolution of most of these items as documented in three supplements to the FPSER. The remaining unresolved items were to be completed in accordance with Appendix R. The FPSER and its supplements supported the issuance of amendments to the operating licenses of the Point Beach Units [1] which required modifications to be made to plant physical features, systems, and administrative controls to meet the criteria of Appendix A to BTP 9.5.–1. Essentially all of these modifications have been completed. Therefore, the Point Beach Units have been upgraded to a high degree of fire protection already and the extensive reassessment involved in this request for additional time is to quantify, in detail, the differences between what was recently approved and the specific requirements of Section III.G to Appendix R of 10 CFR 50 and to complete portions of the modifications required by Sections III.F, III.M and III.O to Appendix R of 10 CFR Part 50. III.F and III.M modifications are essentially complete.

The licensee has not requested an exemption for any other subsections of Appendix R and therefore should meet the schedules required by 10 CFR 50.48(c) for all other subsections except as noted below. As mentioned earlier, there are 11 other subsections which contain criteria for other aspects of fire protection features. One of these, Section III.L, provides the criteria for Alternative Safe Shutdown capability and thus affects the final reassessment and redesign, if necessary, of this feature at the Point Beach Units. Nevertheless, this means that compliance with the remaining applicable sections of Appendix R have been or will be completed on or before the implementation dates required by the Fire Protection Rule.

Based on the above considerations, we find that the licensee has completed a substantial part of the fire protection features at Point Beach Units 1 and 2 in conformance with the requirements of the Fire Protection Rule and is applying significant effort to complete the reassessment of any remaining modifications which might be necessary for strict conformance with Section III.G, and is essentially complete with the modifications required by III.F and III.M. The licensee has also completed his evalution of the modifications necessary to comply with Section III.O of Appendix R. We find that because of the already-completed upgrading of these facilities, there is no undue risk to the health and safety of the public involved with continued operation until the completion of the III.G reassessment by June 30, 1982, the III.F modifiations by June 30, 1982 and III.M Modifications by June 30, 1982, or in extending the time for completion of modifications required by Section III.O. Therefore, an exemption should be granted to allow such time for completion. However, because we have found that most submittals of the III.G reanalysis to date from other licensees have not been complete; that is, not all of the information requested by Generic Letter 81–12 dated February 20, 1981, was provided, we are adding a condition to this Exemption that requires all such information to be submitted by the date granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemptions with respect to the requirements of Section III.G, III.F, III.M and III.O of Appendix R to 10 CFR Part 50:

1. That the date in Paragraph (c)(5) for submitting plans and schedules for meeting the provisions of (c)(2), (c)(3), and (c)(4), with respect to the requirements of Section III.G of Appendix R to Part 50, be extended to June 30, 1982 and, with respect to the requirements of Section III.O of Appendix R to Part 50, be extended to January 31, 1982.

2. That the date in Paragraph (c)(5) for submitting design descriptions of modifications needed to satisfy Section III.G.3 of Appendix R be extended to June 30, 1982.

3. That the implementation date in Paragraph (c)(2) for the installation of modifications that do not require prior NRC approval or plant shut-down be extended to nine months after June 30, 1982 for modifications required by Section III.G.

That the date for implementation of modifications required by Sections III.F and III.M of Appendix R to 10 CFR 50 be extended until June 30, 1982.

That the implementation date in Paragraph (c)(3) for the installation of modifications that do not require NRC approval, but require plant shut-down, be extended to before start-up after the earliest of the specified events commencing 180 days or more after June 30, 1982 for modifications required by Section III.G and to before start-up after the earliest of the specified events commencing 180 days or more after January 31, 1982 for modifications required by Section III.O.

Provided the following condition is met with regard to the outstanding III.G information:

The design descriptions of alternative or decidated shutdown systems to comply with Section III.G.3., as required by § 50.48(c)(5) shall include a point-by-point response to each item in Section 8 of Enclosure 1 to Generic Letter 81–12 dated February 20, 1981, and to each item in Enclosure 2 to Generic Letter 81–12, dated February 20, 1981.

If the licensee does not meet the above conditions, the licensee will be found in violation of 10 CFR 50.48(c) even though the submittal may be made within the time limit granted by the exemption. If such a violation occurs, imposition of a civil penalty will be considered under Section 234 of the Atomic Energy Act, as amended. Such a

[1] Point Beach Unit 1—Operating License DPR–24: Amendment 39 supported by FPSER issued August 2, 1979; FPSER Supplement 1 issued March 5, 1980; FPSER Supplement 2 issued October 21, 1980; FPSER Supplement 3 issued January 22, 1981; Extension of Completion Dates issued February 13, 1981; Amendment 52 with SER issued August 20, 1981.

Point Beach Unit 2—Operating License DPR–27: Amendment 44 supported by FPSER issued August 2, 1979; FPSER Supplement 1 issued March 5, 1980; FPSER Supplement 2 issued October 21, 1980; FPSER Supplement 3 issued January 22, 1981; Extension of Completion Dates issued February 13, 1981; Amendment 58 with SER issued August 20, 1981.

violation will be a continuing one beginning with the date set in the exemption for submittal and terminating when all inadequacies are corrected.

A delay in the determination of inadequacy by the staff, caused by the workload associated with reviewing all of the submittals falling due near the same time, will not relieve the licensee of the responsibility for completeness of the submittal, nor will such delay cause any penalty that may be imposed to be mitigated.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland, this 4th day of May, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-13102 Filed 5-12-82; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1982, shall be at the rate of seventeen cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning July 1, 1982, 21.2 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 78.8 percent of the taxes collected under such sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under section 3221(d)of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: May 7, 1982.

By authority of the Board.

James T. Brown,

Chief Executive Officer.

[FR Doc. 82-13044 Filed 5-12-82; 8:45 am]

BILLING CODE 7905-01-M

SMALL BUSINESS ADMINISTRATION

Presidential Advisory Committee on Small and Minority Business Ownership; Cancellation of Public Meeting

This is to advise that the public meeting of the Presidential Advisory Committee on Small and Minority Business Ownership, originally scheduled for Monday, May 17, 1982, at the Everett McKinley Dirksen Building, Room 2541, 219 So. Dearborn, Chicago, Illinois 60604 has been canceled. The meeting was publicized in the **Federal Register**, Friday, April 30, 1982, page 18699.

Written statements which have already been received to be read before the Committee will be reserved for the next scheduled meeting, the date of which is to be announced.

Should further information be needed, contact Ms. Bettye Bolden, Office of the Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, Room 317, 1441 L Street, NW., Washington, D.C. 20416, telephone (202) 653-6851.

Dated: May 6, 1982.

Edna E. Powers,

Director, Office of Advisory Councils.

[FR Doc. 82-13045 Filed 5-12-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-047]

Qualification as a Citizen of the United States; Dundee Cement Co.

Notice is given that Dundee Cement Company, a Delaware corporation with offices at P.O. Box 122, Dundee, Michigan 48131, has filed an oath for qualification as a citizen of the United States under section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883-1).

The Commandant has found this oath to be in compliance with the law and regulations and has issued a certificate of compliance to Dundee Cement Company. This certificate and any authorization granted under it will expire on March 15, 1985, unless there occurs a change requiring a report under 46 CFR 67.23-7.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

May 3, 1982.

[FR Doc. 12698 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-14-M

[CGD 82-049]

Qualification as a Citizen of the United States; Texasgulf, Inc.

Notice is given that Texasgulf, Inc., a Delaware corporation with offices at High Ridge Park, Stamford, Connecticut, 06904, has filed an oath for qualification as a citizen of the United States under section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883-1).

The Commandant has found this oath to be in compliance with the law and regulations and has issued a certificate for compliance to Texasgulf, Inc. This certificate and any authorization granted under it will expire on March 17, 1985, unless there occurs a change requiring a report under 46 CFR 67.23-7.

Note.—On February 22, 1982, the Commandant issued a certificate of compliance to Texasgulf, Inc., a Texas corporation. This corporation was the subject of a merger. The surviving corporation is now Texasgulf, Inc., a Delaware corporation. As a result of this change in corporate status the certificate issued to Texasgulf, Inc., a Texas corporation, is no longer effective.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

May 4, 1982.

[FR Doc. 82-12697 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-14-M

[CGD 82-050]

Equipment, Construction, and Materials

AGENCY: Coast Guard, DOT.

ACTION: Approval notice.

1. Certain laws and regulations (46 CFR Chapter 1) require that various items of lifesaving, firefighting and other equipment, as well as construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of the types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals and certifications have been granted of

modified as herein described during the period from 6 April 1981 to 11 January 1982 (List No. 1–82). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

Inconbustible Material

Approval No. 160.009/191/0 "Kaylo 10 AF" plan poured or filter press type asbestos-free calcium silicate incombustible material identical to that described in National Bureau of Standards Report No. 3919, manufactured by Owens-Corning Fiberglas Corp., Washington, D.C., Berlin, New Jersey, and Toledo, Ohio, Effective 5 August 1981 (Extension of Approval No. 160.009/191/0 dated 22 Sept 1976).

Self-Contained Breathing Apparatus

Approval No. 160.011/53/0 Dual purpose type breathing apparatus consisting of 30 minute self-contained breathing apparatus, manufactured by Mine Safety Appliance Co., Murrysville, PA., effective 23 August 1981.

Approval No. 160.011/54/0 Scott Air Pak 2.2 30 minute self-contained breathing apparatus, manufactured by Scott Aviation, Lancaster, NY., effective 18 November 1981.

Approval No. 160.011/55/0 Scott Air Pak 4.5 and Presur-Pak 4.5 30 minute self-contained breathing apparatus, manufactured by Scott Aviation, Lancaster, NY., effective 18 November 1981.

Approval No. 160.011/56/0 Scott Air Pak 4.5 and Presur-Pak 4.5 one hour self-contained breathing apparatus, manufactured by Scott Aviation, Lancaster, NY., effective 18 November 1981.

Lifeboat Winch

Approval No. 160.015/89/0 Type W–70–P lifeboat winch, approval limited to mechanical components only, manufactured by Carroll Engineering Company, Perth Amboy, NJ effective 5 August 1981, (Extension of Approval No. 160.015/89/0 dated 1 June 1976).

Approval No. 160.015/90/0 Type CW–14 lifeboat winch, approval is limited to mechanical components only, manufactured by Carroll Engineering Company, Perth Amboy NJ effective 5 August 1981, (Extension of Approval No. 160.015/90/0 dated 1 June 1976).

Approval No. 160.015/114/0 Type BE 9.1 winch; approval limited to mechanical components only, manufactured by Watercraft America, Inc., Edgewater, FL effective 1 December 1981 (Extension of Approval No. 160.015/114/0 dated 13 September 1976).

Approval No. 160.015/115/0 Type BE 6.0 winch; approval limited to mechanical components only, manufactured by Watercraft America, Inc., Edgewater FL effective 1 December 1981, (Extention of Approval No. 160.015/115/0 dated 3 August 1976).

Approval No. 160.015/121/3 Model W2800 survival capsule-launching winch; approval limited to mechanical components only, manufactured by Whittaker Corporation, La Mesa, CA effective 23 July 1981 (Supersedes Approval No. 160.015/121/2 dated 17 July 1980 to show revision and increased working load).

Approval No. 160.015/128/1 Type USW/5.52 lifeboat winch; approval limited to mechanical components only, manufactured by Watercraft America, Inc., Edgewater, FL effective 21 October 1981, (Supersedes Approval No. 160.015/128/0 dated 20 March 1980 to correct error of working load).

Approval No. 160.015/132/0 Type BE 7.9 winch; approval limited to mechanical components only, manufactured by Schat Davit Corporation, Newark, DE effective 9 September 1981.

Approval No. 160.015/133/0 Type BE 6.0 winch; approval limited to mechanical components only, manufactured by Schat Davit Corporation, Newark, DE effective 2 December 1981.

Ladder Embarkation-Debarkation (Type 1)

Approval No. 160.017/53/0 Type 1, embarkation-debarkation ladder, dacron-jacketed, orange polypropylene "safety core" rope suspension, manufactured by Coast Marine & Industrial Supply, Inc., San Francisco, CA effective 30 July 1981 (Supersedes Approval No. 160.017/53/0 dated 19 February 1981 to show additional assembly location).

Lifeboat Sea Anchor

Approval No. 160.019/15/0 Sea Anchor Model No. 929, manufactured by Cal-June Corporation, North Hollywood, CA effective 5 August 1981 (Extension of Approval No. 160.019/15/0 dated 1 June 1976).

Emergency Signaling Mirror

Approval No. 160.020/7/0 Model 35, emergency signaling mirror, 5" x 3" reflex type, manufactured by Libbey-Owens-Ford Glass Company, Brackenridge, PA effective 1 December 1981 (Extension of Approval No. 160.020/7/0 dated 8 September 1976).

Emergency Drinking Water (in Hermetically Sealed Containers)

Approval No. 160.026/41/2 Container for emergency drinking water, manufactured by F & L Packing Corporation, Belleville, NJ effective 27 August 1981 (Supersedes Approval No. 160.026/41/2 dated 19 March 1981 to discontinue pull-tab lids).

Emergency Provisions (Lifeboats)

Approval No. 160.026/52/0 Verkade survival ration for lifeboats-green pack, manufactured by Koninklijke Verkade Fabrieken B.V., Netherlands effective 18 August 1981.

Life Float

Approval No. 160.027/40/8 4.17' x 3.0' rectangular life float, manufactured by Plasti-Kraft Corporation, Ozona, FL effective 4 November 1981 (Supersedes Approval No. 160.027/40/7 dated 13 August 1980 to show revised method of rigging).

Approval No. 160.027/41/9 6.17' x 3.67' rectangular life float, manufactured by Plasti-Kraft Corporation, Ozona, FL effective 4 November 1981 (Supersedes Approval No. 160.027/41/9 dated 13 August 1980 to show revised method of rigging).

Approval No. 160.027/69/0 7.0 x 9.0 x 4" rectangular, laminated fabric-covered, unicellular plastic foam buoyant mat life float, manufactured by Salerco, Inc. New Orleans, LA effective 30 November 1981 (Extension of Approval No. 160.027/69/0 dated 5 January 1976).

Approval No. 160.027/84/0 90.00" x 48.00" life float, manufactured by Billy Pugh Co., Inc. Corpus Christi, TX effective 30 July 1981.

Approval No. 160.027/85/0 108.00" x 61.00 life float, manufactured by Billy Pugh Co., Inc. Corpus Christi, TX effective 30 July 1981.

Lifeboat Davit

Approval No. 160.032/150/4 Type B–47 mechanical davit straight boom with sheath screw, manufactured by Lake Shore, Inc., Iron Mountain MI effective 1 December 1981 (Extension of Approval No. 160.032/150/4 dated 17 December 1976).

Approval No. 160.032/169/0 Gravity davit, Type LG–13–2G, manufactured by Carroll Engineering Company, Perth Amboy, NJ effective 5 August 1981 (Extension of Approval No. 160.032/169/0 dated 1 June 1976).

Approval No. 160.032/172/0 Gravity davit, Type LG–125–1G, manufactured by Carroll Engineering Company Perth Amboy, NJ effective 5 August 1981 (Extension of Approval No. 160.032/172/0 dated 1 June 1976).

Approval No. 160.032/204/0 Type ORD/DHM fixed gravity davit, manufactured by Watercraft America, Inc. Edgewater, FL effective 4 August 1981 (Extension of Approval No. 160.032/204/0 dated 17 June 1976).

Approval No. 160.032/209/0 Type ORD/DHM fixed gravity davit, manufactured by Watercraft America, Inc. Edgewater, FL effective 1 December 1981 (Extension of Approval No. 160.032/209/0 dated 24 August 1976).

Mechanical Disengaging Apparatus (for lifeboats)

Approval No. 160.033/68/0 Approved for maximum working load of 19.167 pounds, used only as a single hook, manufactured by Whittaker Corporation, La Mesa, CA effective 10 September 1981 (Supersedes Approval No. 160.033/68/0 dated 16 June 1981 to show minor revisions).

Approval No. 160.033/68/1 Approved for maximum working load of 19.167 pounds when constructed with flame cut hook, manufactured by Whittaker Corporation, La Mesa, CA effective 26 October 1981 (Supersedes Approval No. 160.033/68/0 dated 10 September 1981 to show revised working load.)

Approval No. 160.033/70/0 Approved for maximum working load of 15,000 pounds, used only as a single hook, manufactured by Whittaker Corporation, La Mesa, CA effective 25 August 1981.

Approval No. 160.033/70/0 Approved for maximum working load of 15,000 pounds, used only as a single, hook manufactured by Whittaker Corporation, La Mesa, CA effective 4 November 1981 (Supersedes Approval No. 160.033/70/0 dated 25 August 1981 to show minor revisions).

Lifeboat

Approval No. 160.035/211/6 22.0′ x 7.5′ x 3.17′ steel, oar-propelled lifeboat, manufactured by Marine Safety Equipment Corporation, Farmingdale, NJ effective 18 August 1981 (Supersedes of Approval No. 160.035/211/5 dated to show alternate arrangement).

Approval No. 160.035/284/4 16.0′ x 5.5′ x 2.38′ aluminum, oar-propelled lifeboat, manufactured by Marine Safety Equipment Corporation Farmingdale, NJ effective 30 November 1981 (Extension of Approval No. 160.035/284/4 dated 18 August 1981).

Approval No. 160.035/334/1 26.0′ x 9.0′ x 3.83′ steel, motor-propelled lifeboat without radio cabin or searchlight, manufactured by Marine Safety Equipment Corporation, Farmingdale, NJ effective 4 August 1981 (Extension of Approval No. 160.035/334/1 dated 6 May 1976).

Approval No. 160.035/343/3 26.0′ x 7.88′ x 3.54′ aluminum, oar-propelled lifeboat, manufactured by Marine Safety Equipment Corporation, Farmingdale, NJ effective 30 November 1981 (Extension of Approval No. 160.035/343/3 dated 4 August 1975).

Approval No. 160.035/371/1 26.0′ x 9.0′ x 3.83′ steel, hand-propelled lifeboat, manufactured by Marine Safety Equipment Corporation, Farmingdale, NJ effective 4 August 1981 (Extension of Approval No. 160.035/371/1 dated 6 May 1976).

Approval No. 160.035/484/0 27.89′ x 9.74′ x 4.07′ fibrous glass reinforced plastic, totally enclosed motor-propelled lifeboat, manufactured by Watercraft America, Inc., Edgewater, FL effective 4 August 1981 (Extension of Approval No. 160.035/484/0 dated 8 October 1979).

Approval No. 160.035/500/0 Model CA 5400, 19.75′ x 14.0′ x 5.12′ fibrous glass reinforced plastic motor propelled lifeboat, manufactured by Whittaker Corporation La Mesa, CA effective 4 November 1981 (Supersedes Approval No. 160.035/500/0 dated 28 May 1981 to show minor changes).

Approval No. 160.035/501/1 Model CA 3600, 19.0′ x 12.5′ x 4.54′ fibrous glass reinforced plastic motor propelled lifeboat, manufactured by Whittaker Corporation, La Mesa, CA effective 30 July 1981 (Supersedes Approval No. 160.035/501/0 to show addition of model CA 3800).

First Aid Kit

Approval No. 160.041/12/0 Model No. 181 First Aid Kit, manufactured by Revere Supply Co., New, York, NY effective 3 December 1981.

Kapok Buoyant Cushion

Approval No. 160.048/144/0 Group approval for rectangular and trapezoidal kapok buoyant cushions, manufactured by Miltco Products Corporation, Brooklyn, NY effective 14 April 1981 (Extention of Approval No. 160.048/144/0 dated 15 April 1976).

Unicellular Plastic Ring Life Buoy

Approval No. 160.050/77/0 20-inch unicellular plastic foam ring life buoy, manufactured by Taylortec, Inc., Hammond, LA effective 4 November 1981 (Extension of Approval No. 160.050/77/0 dated 14 September 1976).

Approval No. 160.050/78/0 24-inch unicellular plastic foam ring life buoy, manufactured by Taylortec, Inc., Hammond, LA effective 4 November 1981 (Extension of Approval No. 160.050/78/0 dated 14 September 1976).

Approval No. 160.050/79/0 30-inch unicellular plastic foam ring life buoy, manufactured by Taylortec, Inc., Hammond, LA effective 4 November 1981 (Extension of Approval No. 160.050/79/0 dated 14 September 1976).

Approval No. 160.050/108/0 24-inch unicellular plastic foam ring life buoy, manufactured by Billy Pugh Company Inc., Corpus Christi, TX effective 1 July 1981.

Approval No. 160.050/109/0 30-inch unicellular plastic foam ring life buoy, manufactured by Billy Pugh Company, Inc., Corpus Christi, TX effective 1 July 1981.

Approval No. 160.050/116/0 30-inch unicellular plastic foam ringbuoy, "R" Series, manufactured by Cal-June Inc., North Hollywood, CA effective 8 October 1981.

Inflatable Life Raft

Approval No. 160.051/56/0 10-person inflatable life raft with conventional water pockets, manufactured by Switlik Parachute Company, Inc., Trenton NJ effective 1 December 1981 (Extension of Approval No. 160.051/56/0 dated 17 September 1976).

Approval No. 160.051/57/0 15-person inflatable life raft, manufactured by Switlik Parachute Company, Inc., Trenton NJ effective 17 September 1981 (Extension of Approval No. 160.051/57/0 dated 17 September 1976).

Approval No. 160.051/58/0 20-person inflatable life raft, manufactured by Switlik Parachute Company, Inc., Trenton NJ effective 1 December 1981 (Extension of Approval No. 160.051/58/0 dated 17 September 1976).

Inflatable Life Raft (Oceans)

Approval No. 160.051/59/0 25-person inflatable life raft with "Ocean Service

Equipment", manufactured by Switlik Parachute Company, Inc., Trenton NJ effective 1 December 1981 (Extension of Approval No. 160.051/59/0 dated 17 September 1976).

Approval No. 160.051/85/0 25-person inflatable life raft with "Ocean Service Equipment", manufactured by Switlik Parachute Company, Inc., Trenton NJ effective 1 December 1981 (Extension of Approval No. 160.051/85/0 dated 17 September 1976).

Inflatable Life Raft (Limited Service)

Approval No. 160.051/61/0 25-person inflatable life raft with "Limited Service Equipment", manufactured by Switlik Parachute Company, Inc., Trenton NJ effective 1 December 1981 (Extension of Approval No. 160.051/61/0 dated 17 September 1976).

Approval No. 160.051/86/0 25-person inflatable life raft with "Limited Service Equipment", manufactured by Switlik Parachute Company, Inc., Trenton NJ effective 1 December 1981 (Extension of Approval No. 160.051/86/0 dated 17 September 1976).

Unicellular Plastic Foam Buoyant Vest

Approval No. 160.052/387/0 Adult Model AP–2, non-standard unicellular plastic foam buoyant vest, manufactured by Mermatic, Inc., San Diego, CA effective 5 August 1981 (Extension of Approval No. 160.052/387/0 dated 7 August 1976).

Approval No. 160.052/388/0 Child medium, Model CPM, non-standard unicellular plastic foam buoyant vest, manufactured by Mermatic, Inc., San Diego, CA effective 5 August 1981 (Extension of Approval No. 160.052/388/0 dated 7 April 1976).

Approval No. 160.052/389/0 Child small, Model CPS, non-standard unicellular plastic foam buoyant vest, manufactured by Mermatic, Inc., San Diego, CA effective 5 August 1981 (Extension of Approval No. 160.052/389/0 dated 7 April 1976).

Work Vest Unicellular Plastic

Approval No. 160.053/38/1 Adult Small, Model No. 2175, manufactured by Mustang Sportswear Inc., Richmond B.C. Canada effective 8 January 1982.

Approval No. 160.053/39/1 Adult Medium, Model No. 2175, manufactured by Mustang Sportswear Inc., Richmond B.C. Canada effective 8 January 1982.

Approval No. 160.053/40/1 Adult Large, Model No. 2175, manufactured by Mustang Sportswear Inc., Richmond B.C. Canada effective 8 January 1982

Approval No. 160.053/41/1 Adult X-Large, Model No. 2175, manufactured by Mustang Sportswear Inc., Richmond B.C. Canada effective 8 January 1982.

Approval No. 160.053/42/1 Adult XX-Large, Model No. 2175, manufactured by Mustang Sportswear Inc., Richmond B.C. Canada effective 8 January 1982.

First Aid Kit for Inflatable Liferafts

Approval No. 160.054/9/0 Model No. 180 First Aid Kit, manufactured by Revere Supply Company, Inc. New York, NY effective 21 October 1981.

Unicellular Plastic Foam Life Preserver

Approval No. 160.055/115/0 Adult, Model No. 601, manufactured by Cal-June Corporation, North Hollywood, CA effective 5 August 1981 (Extension of Approval No. 160.055/115/0 dated 21 June 1976).

Approval No. 160.055/116/0 Child, Model No. 603, manufactured by Cal-June Corporation, North Hollywood, CA effective 5 August 1981 (Extension of Approval No. 160.055/116/0 dated 21 June 1976).

Hydraulic Release

Approval No. 160.062/1/1 Raftgo Model C hydraulic and manual release for lifesaving equipment, manufactured by C. J. Hendry Company, San Francisco, CA effective 23 November 1981 (Revision of Approval No. 160.062/1/1 dated April 1979 to show loads for annual submergence testing).

Approval No. 160.062/2/0 Model 404 hydraulic and manual release for lifesaving equipment, manufactured by Arrow Manufacturing, Inc., San Francisco, CA effective 23 November 1981 (Revision of Approval No. 160.062/2/0 dated 2 June 1977 to show loads for annual submergence testing).

Approval No. 160.062/3/0 Model S–800 hydraulic and manual release for lifesaving equipment, manufactured by Switlik Parachute Company, Inc., Trenton, NJ effective 24 November (Revision of Approval 160.062/3/0 dated 5 October 1976 to show loads for annual submergence testing).

Marine Buoyant Device

Approval No. 160.064/424/0 Adult small, Model 100DM, manufactured by Mermatic, Inc., San Diego, CA, effective 5 August 1981 (Extension of Approval No. 160.064/424/0 dated 7 April 1976).

Approval No. 160.064/425/0 Adult L/XL, Model 100FM, manufactured by Mermatic, Inc., San Diego, CA, effective 5 August 1981 (Extension of Approval No. 160.064/425/0 dated 7 April 1976).

Approval No. 160.064/426/0 Adult small, Model 200HM, manufactured by Mermatic, Inc., San Diego, CA effective 5 August 1981 (Extension of Approval 160.064/426/0 dated 7 April 1976).

Approval No. 160.064/1109/0 Child medium, Model 1200, manufactured by Bass Pro Shops, Springfield, Missouri, effective 5 August 1981 (Extension of Approval 160.064/1109/0 dated 14 May 1976).

Approval No. 160.064/1110/0 Adult Model No. 1200, manufactured by Bass Pro Shops, Springfield, Missouri, effective 5 August 1981 (Extension of Approval 160.064/1110/0 dated 14 May 1976).

Approval No. 160.064/1111/0 Adult Model No. 1200, manufactured by Bass Pro Ships, Springfield, Missouri, effective 5 August 1981 (Extension of Approval 160.064/1111/0 dated 14 May 1976).

Approval No. 160.064/1112/0 Adult Model No. 1200, manufactured by Bass Pro Shops, Springfield, Missouri, effective 5 August 1981 (Extension of Approval 160.064/1112/0 dated 14 May 1976).

Approval No. 160.064/1438/1 14½"×15×2½", Model No. 200, manufactured by Coated Marine Products Inc., Waukegan, IL, effective 4 January 1982 (Supersedes Approval No. 160.064/1438/0 dated 11 September 1977 to show change in Mfg. and Design).

Approval No. 160.064/1842/0 Adult Small, Model No. 380, manufactured by Gladding Corporation, Greenville, SC effective 11 December 1981.

Approval No. 160.064/1843/0 Adult Medium, Model No. 380, manufactured by Gladding Corporation, Greenville, SC effective 11 December 1981.

Approval No. 160.064/1844/0 Adult Large, Model No. 380, manufactured by Gladding Corporation, Greenville, SC effective 11 December 1981.

Approval No. 160.064/1845/0 Adult X-Large, Model No. 380, manufactured by Gladding Corporation, Greenville, SC effective 11 December 1981.

Approval No. 160.064/1855/0 Adult Universal, Model No. EA3, manufactured by Ero Industries, Inc., Chicago, IL effective 15 April 1981.

Approval No. 160.064/1856/0 Child Medium, Model No. ECM3, manufactured by Ero Industries, Inc., Chicago, IL effective 15 April 1981.

Approval No. 160.064/1857/0 Child Small, Model No. ECS3, manufactured by Ero Industries, Inc., Chicago, IL effective 15 April 1981.

Approval No. 160.064/1863/0 Adult Universal, Model No. BV–3, manufactured by Buddy Schoellkopf Product, Dallas, TX effective 29 December 1981.

Approval No. 160.064/1897/0 Adult Small, Model No. AV3S, manufactured by Ero Industries, Inc., Chicago, IL effective 6 August 1981.

Approval No. 160.064/1898/0 Adult Medium, Model No. AV3M,

manufactured by Ero Industries, Inc., Chicago, IL effective 6 August 1981.

Approval No. 160.064/1899/0 Adult Large Model No. AV3L, manufactured by Ero Industries, Inc., Chicago, IL effective 6 August 1981.

Approval No. 160.064/1907/0 Toddler, Model No. 909T, manufactured by America's Cup, Inc., City of Industry, CA effective 15 April 1981.

Approval No. 160.064/1924/0 Infant, Model No. Baby–1, manufactured by Ero Industries, Inc., Chicago, IL effective 15 April 1981.

Approval No. 160.064/1927/0 Adult X-Small, Model No. 101, manufactured by Almarin Canada Ltd., Windsor, Ontario effective 15 April 1981.

Approval No. 160.064/1952/0 Model No. H–1, manufactured by Forespar, Tustin, CA effective 29 December 1981.

Approval No. 160.064/1976/0 Adult Small, Model No. SKI–S, manufactured by Ero Industries, Inc., Chicago, IL effective 29 December 1981.

Approval No. 160.064/1977/0 Adult Medium, Model No. SKI–M, manufactured by Ero Industries, Inc., Chicago, IL effective 29 December 1981.

Approval No. 160.064/1978/0 Adult Large, Model No. SKI–L, manufactured by Ero Industries, Inc., Chicago, IL effective 29 December 1981.

Approval No. 160.064/1979/0 15-inch by 15-inch by 2½, Model No. 1286, manufactured by Crawford A Carisbrook Company, Richmond, VA effective 29 December 1981.

Approval No. 160.064/1980/0 Adult Small, Model No. CW–1, manufactured by Extrasport Inc., New York, NY effective 11 January 1982.

Approval No. 160.064/1981/0 Adult Medium, Model No. CW–2, manufactured by Extrasport Inc., New York, NY effective 11 January 1982.

Approval No. 160.064/1982/0 Adult Large, Model No. CW–3, manufactured by Extrasport Inc., New York, NY effective 11 January 1982.

Approval No. 160.064/1994/0 Adult Small/Medium, Model Nos. 1005, 1006, 1007, or 1008, manufactured by Medalist Leesburg, Leesburg, FL effective 29 December 1981.

Approval No. 160.064/1995/0 Adult Large/X-Large, Model Nos. 1005, 1006, 1007, or 1008, manufactured by Medalist Leesburg, Leesburg, FL effective 29 December 1981.

Approval No. 160.064/2002/0 Adult X-Large, Model No. 3002–1, manufactured by Commercial Fabric Mfg., Seattle, WA effective 29 December 1981.

Approval No. 160.064/2003/0 Adult Large, Model No. 3002–2, manufactured by Commercial Fabric Mfg., Seattle, WA effective 29 December 1981.

Approval No. 160.064/2004/0 Adult Medium, Model No. 3002–3, manufactured by Commercial Fabric Mfg., Seattle, WA effective 29 December 1981.

Approval No. 160.064/2005/0 Adult Small, Model No. 3002–4, manufactured by Commercial Fabric Mfg., Seattle, WA effective 29 December 1981.

Approval No. 160.064/2006/0 Adult X-.mall, Model No. 3002–5, manufactured by Commercial Fabric Mfg., Seattle, WA effective 29 December 1981.

Approval No. 160.064/2007/0 Youth, Model No 3002–6, manufactured by Commercial Fabric Mfg., Seattle, WA effective 29 December 1981.

Approval No. 160.064/2008/0 Child Small, Model No. 3002–7, manufactured by Commercial Fabric Mfg., Seattle, WA effective 29 December 1981.

Approval No. 160.064/2009/0 Infant, Model No. I2, manufactured by Ero Industries, Inc., Chicago, IL effective 8 January 1982.

Approval No. 160.064/2010/0 Child Small, Model No. S2, manufactured by Ero Industries, Inc., Chicago, IL effective 8 January 1982.

Approval No. 160.064/2011/0 Child Medium, Model No. M2, manufactured by Ero Industries, Inc., Chicago, IL effective 8 January 1982.

Approval No. 160.064/2020/0 Adult Small, Model No. SSV–750, manufactured by Stearns Mfg. Co., St. Cloud, MN effective 4 January 1982.

Approval No. 160.064/2021/0 Adult Medium, Model No. SSV–750, manufactured by Stearns Mfg. Co., St. Cloud, MN effective 4 January 1982.

Approval No. 160.064/2022/0 Adult Large, Model No. SSV–750, manufactured by Stearns Mfg. Co., St. Cloud, MN effective 4 January 1982.

Approval No. 160.064/2023/0 Adult X-Large, Model No. SSV–750, manufactured by Stearns Mfg. Co., St. Cloud, MN effective 4 January 1982.

Approval No. 160.064/2024/0 Child Medium, Model No. BV–3, manufactured by Buddy Schoellkopf Products, Inc., Dallas, TX effective 29 December 1981.

Approval No. 160.064/2025/0 Child Small, Model No. BV–3, manufactured by Buddy Schoellkopf Products, Inc., Dallas, TX effective 29 December 1981.

Protection Cover For Lifeboats

Approval No. 160.065/7/0 "MASECO", Type Mark II, protecting cover for the occupants of all types of aluminum lifeboats, manufactured by Marine Safety Equipment Corporation, Farmingdale, NJ effective 23 December 1981 (Extension of Approval No. 160.065/7/0 dated 2 November 1976).

Red Aerial Pyrotechnic Flare

Approval No. 160.066/13/0 Twin-Star, self-contained red meteor flare, manufactured by Kilgore Corporation, Toone TN effective 26 October 1981.

Automatic Disengaging Device for Liferafts

Approval No. 160.070/3/0 Type 5 RA 1134 automatic disengaging device for davit-launched life rafts, manufactured by B. F. Goodrich, Union, WV effective 23 December 1981.

Exposure Suit

Approval No. 160.071/1/1 Exposure Suit, Adult, Model No. 1409, manufactured by Imperial Manufacturing Co., Bremerton, WA effective 15 June 1981 (Supersedes Approval No. 160.071/1/1 dated 16 July 1979 to show documentation change).

Approval No. 160.071/2/2 Exposure suit, adult, identified as BayleySuit Model 7–01–00, manufactured by BayleySuit Inc., Fortuna, CA effective 23 July 1981 (Supersedes Approval No. 160.071/2/2 dated 9 May 1979 to show change in documentation).

Approval No. 160.071/6/0 Exposure suit, adult extra-large, identified as model 7–01–07, manufactured by BayleySuit, Inc., Fortuna, CA effective 23 July 1981.

Approval No. 160.071/8/0 Exposure suit, child or small adult, identified as model 7–01–04, manufactured by BayleySuit, Inc. Fortuna, CA effective 23 July 1981.

Sound-Powered Telephone Station

Approval No. 161.005/38/2 Desk type with internal ringer, selective ringing, common talking, manufactured by Henschel Corporation, Amesbury MA effective 3 August 1981 (Extension of Approval No. 161.005/38/2 dated 6 June 1974).

Sound Powered Telephone System

Approval No. 161.005/52/0 Selective ringing, common talking, 19 stations maximum, manufactured by Hose-McCann Telephone Co., Inc., Englewood, NJ effective 18 August 1981 (Extension of Approval No. 161.005/52/0 dated 24 September 1975

Approval No. 161.005/53/1 Selective ringing, common talking, 19 stations maximum, manufactured by Hose-McCann Telephone Co., Inc., Englewood, NJ effective 18 August 1981 (Extension of Approval No. 161.005/53/1 dated 24 September 1975).

Approval No. 161.005/63/0 Selective ringing, common talking, 19 stations maximum, manufactured by Hose-McCann Telephone Co., Inc.,

Englewood, NJ effective 18 August 1981 (Extension of Approval No. 161.005/63/0 dated 6 January 1976).

Approval No. 161.005/64/0 Selective ringing, common talking, 19 stations maximum, manufactured by Hose-McCann Telephone Co., Inc., Englewood, NJ effective 18 August 1981 (Extension of Approval No. 161.005/64/0 dated 14 April 1976).

Approval No. 161.005/65/0 Selective ringing, common talking, 19 stations maximum, manufactured by Hose-McCann Telephone Co., Inc., Englewood, NJ effective 18 August 1981 (Extension of Approval No. 161.005/65/0 dated 6 January 1976).

Approval No. 161.005/88/0 Selective ringing, common talking, 24 stations maximum, manufactured by Hose-McCann Telephone Co., Inc., Englewood, NJ effective 12 August 1981.

Approval No. 161.005/89/0 Selective ringing, common talking, 24 stations maximum, manufactured by Hose-McCann Telephone Co., Inc., Englewood, NJ effective 12 August 1981.

Approval No. 161.005/90/0 Selective ringing, common talking, 24 stations maximum, manufactured by Hose-McCann Telephone Co., Inc., Englewood, NJ effective 12 August 1981.

Approval No. 161.005/91/0 Selective ringing, common talking, 24 stations maximum, manufactured by Hose-McCann Telephone Co., Inc., Englewood, NJ effective 12 August 1981.

Floating Electric Water Light

Approval No. 161.010/4/1 Guest Man-Overboard Light, Model No. 326, manufactured by Guest Corporation, West Hartford, CN effective 6 April 1981 (Supersedes Approval No. 161.010/4/1 dated 11 August 1977 to show additional drawing number).

Personal Flotation Device Light

Approval No. 161.012/7/0 "Jim-Buoy" PFD light, identified by drawing for PFD Light No. 450, manufactured by Cal-June Incorporated, North Hollywood, CA effective 23 July 1981 (Supersedes Approval No. 161.012/7/0 dated 25 February 1980 to show additional identifying data).

Safety Value (Power Boilers)

Approval No. 162.001/221/0 Series VM-110, cast carbon steel body, spring loaded, nozzle type safety valve, manufactured by J. E. Lonergan Company, Philadelphia, PA effective 3 August 1981 (Extension of Approval No. 162.001/221/0 dated 29 March 1976).

Approval No. 162.001/222/0 Series VM-120, cast carbon steel body, spring loaded, nozzle type safety valve, manufactured by J. E. Lonergan Company, Philadelphia, PA effective 3 August 1981 (Extension of Approval No. 162.001/222/0 dated 29 March 1976).

Approval No. 162.001/223/0 Series VM-130, cast carbon steel body, spring loaded, nozzle type safety valve, manufactured by J. E. Lonergan Company, Philadelphia, PA effective 3 August 1981 (Extension of Approval No. 162.001/223/0 dated 29 March 1976).

Approval No. 162.001/263/1 Crosby Style HN-MS-55, nozzle type safety valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA effective 10 August 1981 (Revision of Approval No. 162.001/263/0 dated 4 February 1976 to show new drawing numbers).

Approval No. 162.001/264/1 Crosby style HN-MS-56, nozzle type safety valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA effective 10 August 1981 (Revision of Approval No. 162.001/264/0 dated 4 February 1976 to show new drawing numbers).

Approval No. 162.001/265/1 Crosby style HN-MS-65, nozzle type safety valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA effective 10 August 1981 (Revision of Approval No. 162.001/265/0 dated 4 February 1976 to show new drawing numbers).

Approval No. 162.001/266/1 Crosby style HN-MS-66, nozzle type safety valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA effective 10 August 1981 (Revision of Approval No. 162.001/266/0 dated 4 February 1976 to show new drawing numbers).

Approval No. 162.001/268/1 Crosby style HN-MS-66-9, nozzle type safety relief valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA effective 10 August 1981 (Revision of Approval No. 162.001/268/0 dated 4 February 1976 to show new drawing numbers).

Approval No. 162.001/269/1 Crosby style HN-MS-55-9, nozzle type safety relief valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA effective 10 August 1981 (Revision of Approval No. 162.001/269/0 dated 4 February 1976 to show new drawing numbers).

Approval No. 162.001/270/1 Crosby style HN-MS-56-9, nozzle type safety relief valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA effective 10 August 1981 (Revision of Approval No. 162.001/270/0 dated 4 February 1976 to show new drawing numbers).

Approval No. 162.001/271/3 Crosby style HNB-MS-57, nozzle type, pilot actuated, safety relief valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA effective 10 August 1981 (Revision of Approval No. 162.001/271/2 dated 7 May 1976 to show new drawing numbers).

Approval No. 162.001/272/3 Crosby style HNB-MS-58, nozzle type, pilot actuated, safety relief valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA effective 10 August 1981 (Revision of Approval No. 162.001/272/2 dated 7 May 1976 to show new drawing numbers).

Approval No. 162.001/273/3 Crosby style HNB-MS-67, nozzle type, pilot actuated, safety relief valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA effective 10 August 1981 (Revision of Approval No. 162.001/273/2 dated 7 May 1976 to show new drawing numbers).

Approval No. 162.001/274/3 Crosby style HNB-MS-68, nozzle type, pilot actuated, safety relief valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA effective 10 August 1981 (Revision of Approval No. 162.001/274/2 dated 7 May 1976 to show new drawing numbers).

Approval No. 162.001/275/3 Crosby style HNB-MS 67-25, nozzle type, pilot actuated, safety relief valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA effective 10 August 1981 (Revision of Approval No. 162.001/275/2 dated 7 May 1976 to show new drawing numbers).

Approval No. 162.001/276/3 Crosby style HNB-MS-68-25, nozzle type, pilot actuated, safety relief valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA effective 10 August 1981 (Revision of Approval No. 162.001/276/2 dated 7 May 1976 to show new drawing numbers).

Approval No. 162.001/277/3 Crosby style HNB-MS-57-9, nozzle type, pilot actuated safety relief valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA, effective 10 August 1981 (Revision to Approval No. 162.001/277/2 dated 7 May 1976 to show new drawing numbers).

Approval No. 162.001/278/3 Crosby style HNB-MS-58-9, nozzle type, pilot actuated safety relief valve, manufactured by Crosby Valve and Gage Company, Wrentham, MA, effective 10 August 1981 (Revision to Approval No. 162.001/278/2 dated 7 May 1976 to show new drawing numbers).

Flame Arrester (Tank Vessels)

Approval No. 162.016/38/1 Model 7618 flame arrester, stainless steel body and tube bank, manufactured by Groth Equipment Corporation, Houston, TX, effective 14 September 1981 (Supersedes Approval No. 162.016/38/0 dated 3 June 1981 to show new sizes and FM report).

Approval No. 162.016/39/0 Model 94306 flame arrester, constructed of cast iron, cast steel, stainless steel, or aluminum body, manufactured by GPE

Controls, Inc., Morton Grove, IL, effective 24 November 1981.

Pressure-Vacuum Relief Value

Approval No. 162.017/132/0 Pres-Vac type HS–M pressure-vacuum relief valve with cast iron, bronze, stainless steel, or nodular cast iron bodies, manufactured by PRES–VAC, S.A., Madrid, Spain, effective 17 December 1981.

Approval No. 162.017/63/0 Figue 153B pressure-vacuum relief valve, atmospheric pattern, weight-loaded pressure and vacuum poppets, manufactured by Morrison Brothers Company, Dubuque, Iowa, effective 5 August 1981 (Extension of Approval No. 162.017/63/0 17 June 1976).

Liquefied Compressed Gas Safety Relief Valve

Approval No. 162.018/31/1 Series W–100 and W–300, safety relief valves for liquefied petroleum gas and anhydrous amonia service, manufactured by J. E. Lonergan Company, Philadelphia, PA, effective 5 August 1981 (Extension of Approval No. 162.018/31/1 dated 29 March 1976).

Approval No. 162.018/70/1 2600 Series Safety Relief Valve, liquefied compressed gas service, full nozzle type, metal to metal seat, manufactured by Teledyne Farris Engineering Palisades Park, NJ, effective 11 September 1981 (Supersedes Approval No. 162.018/70/0 dated 9 May 1979 to show latest construction revisions).

Combination Solid Stream and Water Spray Fire Hose Nozzle

Approval No. 162.027/9/0 1½ inch combination solid stream and water spray fire hose nozzle, manufactured by Akron Brass Mfg. Company, Inc., Wooster, Ohio, effective 27 August 1981 (Revision of Approval No. 162.027/9/0 to show change in model designations).

Approval No. 162.027/10/0 2½ inch style 2046 combination solid stream and water spray fire hose nozzle ball, manufactured by Akron Brass Mfg. Company, Inc., Wooster, Ohio, effective 31 August 1981 (Revision of Approval No. 162.027/10/0 to show change in model designation).

Halon 1301 Fixed Fire Extinguishing System

Approval No. 162.029/7/0 Halex 1301 Model 8.5, pre-engineered Halon 1301 marine type extinguishing system, unit type, manufactured by Automatic Sprinkler Corporation of America, Cleveland, Ohio, effective 3 August 1981 (Extension of Approval No. 162.029/7/0 dated 13 May 1976).

Approval No. 162.029/8/0 Halex 1301 Model 17, pre-engineered Halon 1301 marine type extinguishing system, unit type, manufactured by Automatic Sprinkler Corporation of America, Cleveland, Ohio, effective 4 August 1981 (Extension of Approval No. 162.029/8/0 dated 13 May 1976).

Approval No. 162.029/9/0 Halex 1301 Model 25, pre-engineered Halon 1301 marine type extinguishing system, unit type, manufactured by Automatic Sprinkler Corporation of America, Cleveland, Ohio, effective 4 August 1981 (Extension of Approval No. 162.029/9/0 dated 13 May 1976).

Approval No. 162.029/10/0 Halex 1301 Model 33, pre-engineered Halon 1301 marine type extinguishing system, unit type, manufactured by Automatic Sprinkler Corporation of America, Cleveland, Ohio, effective 12 August 1981 (Extension of Approval No. 162.029/10/0 dated 13 May 1976).

Fixed Fire Extinguishing Systems

Approval No. 162.029/24/0 Model "150 CG" 151b. Halon 1301 fire extinguishing system, manufactured by Convenience Marine Products, Grand Rapids, MI, effective 11 September 1981 (Supersedes Approval No. 162.029/24/0 dated 29 June 1981).

Approval No. 162.029/25/0 Model "200 CG" 201b. Halon 1301 fire exfinguishing system, manufactured by Convenience Marine Products, Grand Rapids, MI, effective 11 September 1981 (Supersedes Approval No. 162.029/25/0 dated 29 June 1981).

Foam Type Fire Extinguishing Systems

Approval No. 162.033/17/0 Model "AF–100" mobile hose reel station for helopad protection of offshore drilling platforms, manufactured by Angus Fire Armorur Corporation, Angier, NC, effective 9 September 1981.

Approval No. 162.033/18/0 Model SH–100–30 AFFF hose reel station for helopad protection of offshore oil platforms, manufactured by Safety & Health Associates, Inc., Lafayette, LA, effective 4 November 1981.

Approval No. 162.033/19/0 Model SH–100–60 AFFF hose reel station for helopad protection of offshore oil platforms, manufactured by Safety & Health Associates, Inc., Lafayette, LA, effective 4 November 1981.

Backfire Flame Arrester for Gasoline Engines

Approval No. 162.041/44/0 Volvo backfire flame arrester assembly without spacer flange, manufactured by Volvo-Penta of America, Inc., Chesapeake, VA, effective 14 September 1981 (Extension of Approval No. 162.041/44/0 dated 24 September 1976).

Approval No. 162.041/78/0 Air-Maze No. 2 Unimaze backfire flame arrester, manufactured by Air-Maze Incom International Inc., Cleveland, Ohio, effective 9 September 1981 (Extension of Approval No. 162.041/78/0 dated 22 February).

Approval No. 162.041/134/0 Volvo-Penta flame control device, stainless steel cover, brass elements 0.016 "Thick", manufactured by Volvo-Penta of America, Inc., Chesapeake, VA, effective 11 September 1981 (Extension of Approval No. 162.041/134/0 dated 24 September 1976).

Approval No. 162.041/190/6 Barbron all brass flame arrester, manufactured by Barbron Corporation, Detroit, MI, effective 12 August 1981 (Supersedes Approval No. 162.041/190/5 dated 17 March 1981 to show addition of model heights).

Approval No. 162.041/191/0 Barbron all brass flame arresters, manufactured by Barbron Corporation, Detroit, MI, effective 2 November 1981 (Extension of Approval No. 162.041/191/0 dated 2 November 1976).

Approval No. 162.041/192/0 6½ inch diameter types B175–55, and B175–62, aluminum body and arresting element, manufactured by FACET, Detroit, MI, effective 12 August 1981 (Extension of Approval No. 162.041/192/0 dated 20 February 1976).

Approval No. 162.041/193/0 Backfire flame arrester consisting of a leaf plate and leaf valve assembly which mounts between the carburetor outlet and the engine block, manufactured by Outboard Marine Corporation, Waukegan, IL, effective 19 July 1981 (Extension of Approval No. 162.041/193/0 dated 19 July 1976).

Approval No. 162.041/206/0 Kawasaki Model TCB 8101–01 backfire flame arrester, all aluminum construction, manufactured by Kawasaki Motors Corporation, Shakopee, MN, effective 21 July 1981.

Backfire Flame Control, Gasoline Engine Flame Arresters for Merchant Vessels and Motorboats

Approval No. 162.041/195/1 Aluminum or stainless steel and brass construction with rainshield style cover, manufactured by Facet Enterprises, Inc., Detroit, MI, effective 5 January 1982 (Supersedes Approval No. 162.041/195/0 dated 13 February 1981 to show additional model No.).

Oil-Water Separator

Approval No. 162.050/1051/0 Model SH2–12, consisting of two coalescers and associated piping and pump, manufactured by Sigma Treatment

Systems, Inc., Chester Springs, PA, effective 30 July 1981.

Approval No. 162.050/1052/0 Model SH2–20, consisting of two coalescers and associated piping and pump, manufactured by Sigma Treatment Systems, Inc., Chester Springs, PA, effective 30 July 1981.

Approval No. 162.050/1053/0 Model SH2–40, consisting of two coalescers and associated piping and pump, manufactured by Sigma Treatment Systems, Inc., Chester Springs, PA, effective 30 July 1981.

Oily Water Separators

Approval No. 162.050/1054/0 Sarex Model 25 GPM/VGS, consisting of 3 stages, manufactured by Separation and Recovery Systems and Affiliates, Irvine, CA, effective 23 September 1981.

Approval No. 162.050/1055/0 Sarex Model 50 GPM/VGS, consisting of 3 stages, manufactured by Separation and Recovery Systems and Affiliates, Irvine, CA, effective 23 September 1981.

Approval No. 162.050/1063/0 Stork Services Model Aquamarine GeDe 001, consisting of a cylindrical steel body, manufactured by Stork Services B.V., The Netherlands, effective 12 November 1981.

Approval No. 162.050/1064/0 Stork Services Model Aquamarine GeDe 0002.5, consisting of a cylindrical steel body, manufactured by Stork Services B.V., The Netherlands, effective 12 November 1981.

Approval No. 162.050/1065/0 Stork Services Model Aquamarine GeDe 0005, consisting of a cylindrical steel body, manufactured by Stork Services B.V., The Netherlands, effective 12 November 1981.

Approval No. 162.050/1066/0 Stork Services Model Aquamarine GeDe 0010, consisting of a cylindrical steel body, manufactured by Stork Services B.V., The Netherlands effective 12 November 1981.

Approval No. 162.050/1067/0 Stork Services Model Aquamarine MK II GeDe 250, consisting of a cylindrical steel body, manufactured by Stork Services B.V., The Netherlands effective 12 November 1981.

Approval No. 162.050/1068/0 Stork Services Model Aquamarine MK II GeDe 500, consisting of a cylindrical steel body, manufactured by Stork Services B.V., The Netherlands effective 12 November 1981.

Approval No. 162.050/1069/0 Stork Services Model Aquamarine MK II GeDe 1000, consisting of a cylindrical steel body, manufactured by Stork Services B.V., The Netherlands effective 12 November 1981.

Approval No. 162.050/1070/0 Facet Model OWS–0.5/2.2, consisting of an inclined plate separator, manufactured by Facet Enterprises, Inc., Tulsa, OK effective 11 December 1981.

Approval No. 162.050/1071/0 Facet Model OWS–1/4.4, consisting of an inclined plate separator, manufactured by Facet Enterprises, Inc., Tulsa, OK effective 11 December 1981.

Approval No. 162.050/1072/0 Facet Model OWS–2.3/10, consisting of an inclined plate separator, manufactured by Facet Enterprises, Inc., Tulsa, OK effective 11 December 1981.

Approval No. 162.050/1073/0 Facet Model OWS–3/13.2, consisting of an inclined plate separator, manufactured by Facet Enterprises Inc., Tulsa, OK effective 11 December 1981.

Approval No. 162.050/1074/0 Facet Model OWS–5.7/25, consisting of an inclined plate separator, manufactured by Facet Enterprises Inc., Tulsa, OK effective 11 December 1981.

Approval No. 162.050/1075/0 Facet Model OWS–7.5/33, consisting of an inclined plate separator, manufactured by Facet Enterprises Inc., Tulsa, OK effective 11 December 1981.

Approval No. 162.050/1076/0 Facet Model OWS–10/44, consisting of an inclined plate separator, manufactured by Facet Enterprises Inc., Tulsa, OK effective 11 December 1981.

Approval No. 162.050/1077/0 Facet Model OWS–11.4/50, consisting of an inclined plate separator, manufactured by Facet Enterprises Inc., Tulsa, OK effective 11 December 1981.

Approval No. 162.050/1078/0 Facet Model OWS–15/66, consisting of an inclined plate separator, manufactured by Facet Enterprises Inc., Tulsa, OK effective 11 December 1981.

Approval No. 162.050/1079/0 Facet Model OWS–17.5/55, consisting of an inclined plate separator, manufactured by Facet Enterprises Inc., Tulsa, OK effective 11 December 1981.

Approval No. 162.050/1080/0 Facet Model OWS–20/88, consisting of an inclined plate separator, manufactured by Facet Enterprises Inc., Tulsa, OK effective 11 December 1981.

Approval No. 162.050/1081/0 Facet Model OWS–22.7/100, consisting of an inclined plate separator, manufactured by Facet Enterprises Inc., Tulsa, OK effective 11 December 1981.

Cargo Oil Monitor

Approval No. 162.050/5008/0 Model DRUR 545D Cargo Oil Monitor, with recording device, alarm and sensor, manufactured by SERES, France, effective 8 December 1981 (Superseded Approval No. 162.050/9005/0).

Oil Content Monitor

Approval No. 162.050/9005/0 Model DRUR 545D Cargo Oil Monitor, with recording device, alarm and sensor, manufactured by SERES, France, effective 8 December 1981 (TERMINATE Now approved under Approval No. 162.050/5008/0)

Deck Covering

Approval No. 164.006/47/0 FROANAFT #1 composite mastic and magnesite type deck covering, manufactured by Selby, Battersby and Co., Philadelphia, PA effective 26 August 1981 (Extension of Appr. No. 164.006/47/0 dated 5 January 1981).

Approval No. 164.007/40/0 "Thermafiber Felt" mineral wool type structural insulation, manufactured by United States Gypsum Company, Des Plaines, IL effective 12 August 1981 (Extension of Appr. No. 164.007/40/0 dated 27 May 1976).

Approval No. 164.007/46/0 "Thermafiber Felt" mineral wool type structural insulation, manufactured by United States Gypsum Company, Des Plaianes, IL effective 1 December 1981 (Extension of Appr. No. 164.007/46/0 dated 14 April 1976).

Approval No. 164.008/57/0 "Marine Board 60 P" bulkhead panels, manufactured by Nichias Corporation, Tokyo, Japan effective 8 October 1981 (Supersedes Approval No. 164.008/57/0 dated 6 October 1981 Formerly Nippon Asbestos Co.).

Approval No. 164.008/93/0 "Marine Board K–650" 19mm bulkhead panel system with "Omega" joint, manufactured by Nichias Corporation, Tokyo, Japan effective 6 October 1981 (Supersedes Approval No. dated 6 October 1981 Formerly Nippon Asbestos Co.).

Approval No. 164.009/209/0 "Marine Board K–900" mineral composition board, manufactured by Nichias Corporation, Tokyo, Japan effective 14 October 1981 (Supersedes Approval dated 14 October 1981 Formerly Nippon Asbestos Co.).

Noncombustible Material

Approval No. 164.009/54/0 "Thermafiber" rockwool insulation type noncombustible material, manufactured by United States Gypsum Company, Des Plaines, IL effective 14 August 1981 (Extension of Approval No. 164.009/54/0 dated 14 April 1976).

Approval No. 164.009/124/0 "Thermafiber" mineral wool panels, manufactured by United States Gypsum Company, Des Plaines, IL effective 6 August 1981 (Extension of Approval No. 164.009/124/0 dated 14 April 1976).

Approval No. 164.009/143/0 "CG Coating CP 61" composition type coating noncombustible material, manufactured by Childers Products Company, Bristol, PA effective 28 July 1981 (Reinstatement of Approval No. 164.009/143/0 dated 21 April 1976).

Approval No. 164.009/145/0 "CG Adhesive CP 92" noncombustible material, manufactured by Childers Products Company, Bristol, PA effective 28 July 1981 (Extension of Approval No. 164.009/145/0 dated 21 April 1976).

Approval No. 164.009/169/0 "Thermafiber Number 10 Granulated Wool", manufactured by United States Gypsum Company, effective 1 December 1981 (Extension of Approval No. 164.009/169/0 dated 14 April 1976).

Approval No. 164.009/192/0 Continuous molded pipe insulation, manufactured by Owens-Corning Fiberglas Corp., Washington D.C. effective 11 January 1982 (Extension of Approval No. 164.009/192/0 dated January 11, 1977).

Approval No. 164.009/193/0 Two-Place molded pipe insulation, manufactured by Owens-Corning Fiberglas Corp., Washington D.C. effective 11 January 1982 (Extension of Approval No. 164.009/193/0 dated January 11, 1977).

Approval No. 164.009/211/0 "Marine Board K-650", manufactured by Nichias Corporation, Tokyo, Japan effective 13 October 1981 (Supersedes Approval dated 18 January 1981 Formerly Nippon Asbestos Co.).

Approval No. 164.009/227/0 "MGB Felt" fiberglass insulation type noncombustible material, manufactured by Nichias Corporation, Tokyo, Japan effective 15 October 1981 (Supersedes Cert. dated June 15 1981 Formerly Nippon Asbestos Co.).

Approval No. 164.009/230/0 "MGB Felt" fiberglass insulation type noncombustible material, manufactured by Nichias Corporation, Tokyo, Japan effective 3 December 1981.

Approval No. 164.009/231/0 "Pelican CF" cloth-faced fiberglass hullboard, manufactured by Reilly-Benton Company, Inc., New Orleans, LA effective 15 October 1981.

Approval No. 164.009/232/0 "Pelican FF" aluminum foil-faced hullboard, manufactured by Reilly-Benton Company, Inc., New Orleans, LA effective 15 October 1981.

Approval No. 164.009/233/0 "Pelican FF" flexible insulation type noncombustible material, manufactured by Reilly-Benton Company, Inc., New Orleans, LA effective 15 October 1981.

Interior Finish

Approval No. 164.012/1/0 "Nevamar" laminated plastic interior finish, manufactured by Nevamar Corporation, Odenton, MD effective 10 August 1981 (Reinstate Approval No. 164.012/1/0).

Approval No. 164.012/50/0 "Tuffskin #1613" fiberglass reinforced finish, manufactured by Claremont Co., Inc., Meridian, CT effective 23 July 1981.

Approval No. 164.012/51/0 Glass cloth and aluminum foil facing, manufactured by Jamestown Fiber Glass, Inc., Norwood, NJ effective 23 July 1981.

Approval No. 164.012/52/0 Aluminum foil facing, manufactured by Jamestown Fiber Glass, Inc., Norwood, NJ effective 28 August 1981.

Clyde T. Luck, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

May 5, 1982.

[FR Doc. 82-13068 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applicants for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATE: May 28, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, D.C.

Application No.	Applicant	Renewal of exemption
1479-X	Allied Corporation, Morristown, NJ	1479
3004-X	U.S. Department of Defense, Washington, DC.	3004
3941-X	Kerr-McGee Chemical Corporation, Oklahoma City, OK.	3941
4052-X	The Boeing Company, Seattle, WA	4052
4612-X	EM Science, Division of EM Industries, Inc., Cincinnati, OH.	4612
4850-X	Halliburton Services, Duncan, OK	4850
5038-X	Airco Industrial Gases, Murray Hill, NJ.	5038
5365-X	SunOlin Chemical Company, Claymont, DE.	5365
5372-X	Air Products and Chemicals, Inc., Allentown, PA.	5372
5454-X	Air Products and Chemicals, Inc., Allentown, PA.	5454
5701-X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	5701
5792-X	Northern Petrochemical Company, Des Plaines, IL.	5792
6016-X	Guttman Supply Company, Belle Vernon, PA.	6016
6253-X	Eurotainer S.A., Paris, France	6253
6305-X	Ensign Bickford Company, Simsbury, CT.	6305
6325-X	Atlas Powder Company, Dallas, TX	6325
6392-X	Northern Petrochemical Company, Des Plaines, IL.	6392
6530-X	Air Products and Chemicals, Incorporated, Allentown, PA.	6530
6530-X	Union Carbide Corporation, Danbury, CT [1].	6530
6530-X	Airco Industrial Gases, Murray Hill, NJ.	6530
6563-X	Safety Medical Corporation, Sharon Hill, PA.	6563
6616-X	Fenwal Inc., Ashland, MA	6616
6763-X	Purex Corporation, Carson City, CA	6763
6825-X	Richmond Lox Equipment Company, Livermore, CA [2].	6825
6859-X	Pyronetics Devices, Incorporated, Denver, CO.	6859
6895-X	GTE Products Corporation, Danvers, MA.	6895
7032-X	Polaroid Corporation, Needham Heights, MA.	7032
7040-X	Polaroid Corporation, Needham Heights, MA.	7040
7042-X	Walter Kidde, Belleville, NJ	7042
7052-X	Jet Propulsion Laboratory, Pasadena, CA.	7052
7052-X	Rockwell International Corporation, Arlington, VA.	7052
7052-X	General Motors Corporation, Detroit, MI.	7052
7052-X	The Boeing Company, Seattle, WA	7052
7052-X	Electrochem Industries, Inc., Clarence, NY.	7052
7052-X	GTE Products Corporation, Waltham, MA.	7052
7052-X	Tadiran Israel Electronics Industries, Ltd., Rehovot, Israel.	7052

Application No.	Applicant	Renewal of exemption
7052-X	Sparton Corporation, Jackson, MI	7052
7052-X	Ocean Research Equipment, Inc., Falmouth, MA.	7052
7052-X	Hazeltine Corporation, Braintree, MA.	7052
7070-X	Technic, Inc., Cranston, RI	7070
7070-X	Lea-Ronal Incorporated, Freeport, NY.	7070
7070-X	Oxy Metal Industries Corporation, Nutley, NJ.	7070
7070-X	Engelhard Industries, Providence, RI.	7070
7070-X	Auric Corporation, Newark, NJ	7070
7070-X	American Chemical and Refining Company, Waterbury, CT.	7070
7498-X	Allied Corporation, Morristown, NJ	7498
7573-X	U.S. Department of Defense, Washington, DC.	7573
7586-X	Rockwell International Corporation, Downey, CA.	7586
7741-X	Bell Aerospace, Buffalo, NY	7741
7811-X	Burdick & Jackson Laboratories, Inc., Muskegon, MI.	7811
7835-X	Airco Industrial Gases, Murray Hill, NJ.	7835
7835-X	Synthatron Corporation, Parsippany, NJ[3].	7835
7921-X	Becton-Dickinson and Company, Paramus, NJ.	7921
7943-X	GPS Industries, City of Industry, CA	7943
7943-X	Hill Brothers Chemical Company, Tucson, AZ.	7943
8008-X	Wheaton Aerosols Co., Mays Landing, NJ.	8008
8009-X	Pressure Transport, Inc., Austin, TX[4].	8009
8206-X	Rexnord, Incorporated, Milwaukee, WI[5].	8206
8207-X	Rexnord, Inc., Milwaukee, WI[6]	8207
8285-X	Supelco, Inc., Bellefonte, PA	8285
8305-X	Eldorado Chemical Company, Incorporated, San Antonio, TX.	8305
8337-X	Industrial and Municipal Engineering, Galva, IL.	8337
8339-X	Eastern Steel Barrel Corporation, Piscataway, NJ.	8339
8353-X	Thiokol Corporation, Huntsville, AL	8353
8389-X	Container Corporation of America, Wilmington, DE.	8389
8391-X	Acurex Corporation, Mountain View, CA[7].	8391
8394-X	Whirlpool Corporation, La Porte, IN	8394
8396-X	Aztec Chemicals, Elyria, OH	8396
8410-X	EM Science, Division of EM Industries, Inc., Cincinnati, OH.	8410
8414-X	Fauvet-Girel, Paris, France	8414
8432-X	U.S. Deparment of Defense, Washington, DC.	8432
8441-X	Bunker Ramo Corporation, Westlake Village, CA.	8441
8441-X	Magnavox Electronics Systems Company, Fort Wayne, IN.	8441
8453-X	Atlas Powder Company, Dallas, TX	8453
8498-X	Hunter Drums Limited, Burlington, Ontario, Canada[8].	8498
8597-X	McDonnell Douglas Corporation, St. Louis, MO.	8597
8650-X	Ethyl Corporation, Baton Rouge, LA[9].	8650
8736-X	Pressure Transport, Inc., Austin, TX[10].	8736

[1] To renew and modify exemption to allow deviation from showing exemption number on shipping papers.
[2] To authorize liquefied ethane, flammable gas, as an additional commodity.
[3] To authorize various corrosive material and flammable liquids as additional commodities.
[4] To increase the service pressure range of 1,800 psi to 2,800 psi for cylinders covered by the exemption.
[5] To amend exemption to allow pails to be stretch-wrapped, banded or equivalent in groups of up to 48 pails per pallet.
[6] To amend exemption to allow pails to be stretch-wrapped, banded or equivalent in groups of up to 80 pails per pallet.
[7] To renew; authorize oxygen, nonflammable gas, as additional commodity; to increase water capacity; to add statement that rejection elastic expansion criteria does not apply and to add retest dates via label.
[8] To authorize a compound cleaning liquid containing hydrofluoric acid, corrosive material as an additional commodity.
[9] To authorize a new design portable tank identical to those presently authorized except for use of a single large capacity relief valve in combination with a rupture disc with no fusible device.
[10] To increase the service pressure range of 1,800 psi to 2,800 psi for cylinders covered by the exemption.

Application No.	Applicant	Parties to exemption
4453-P	Mt. State Bit Service, Inc., Morgantown, WV.	4453
6571-P	Utilities Board City of Trussville, Trussville, AL.	6571
6614-P	Rand Pool and Patio, Inc., Des Plaines, IL.	6614
6614-P	Litehouse Products, Inc., Strongsville, OH.	6614
6614-P	F. I. M. Store, Alsip, IL	6614
6762-P	Industrial Water Chemicals, Chattanooga, TN.	6762
6984-P	East Kentucky Explosives, Inc., West Prestonsburg, KY.	6984
6984-P	International Minerals and Chemicals Corporation, Des Plaines, IL.	6984
6984-P	Atlas Powder Company, Dallas, TX	6984
7052-P	Kaman Aerospace Corporation, Bloomfield, CT.	7052
7052-P	Raytheon Company, Portsmouth, RI	7052
7774-P	Chem Cut Company, Fort Worth, TX.	7774
7774-P	Pengo Industries, Inc., Fort Worth, TX.	7774
7811-P	EM Science, Division of EM Industries, Inc., Cincinnati, OH.	7811
8129-P	Drew Chemical Corporation, Boonton, NJ.	8129
8129-P	Emergency Technical Services Corporation, Morris Plains, NJ.	8129
8129-P	Advanced Environmental Technology Corporation, Morris Plains, NJ.	8129
8129-P	Environmental Transfer Corporation, Cedar Knolls, NJ.	8129
8129-P	Bell Laboratories, Murray Hill, NJ	8129
8129-P	Florida State University, Tallahassee, FL.	8129
8344-P	Western-Hoegee Company, Glendale, CA.	8344
8565-P	Pennwalt Corporation, Philadelphia, PA.	8565
8699-P	Rexnord Inc., Commerce City, CO[1]	8699
8701-P	Rexnord Inc., Commerce City, CO[2]	8701
8732-P	Union Carbide Corporation, Danbury, CT.	8732
8747-P	Rexnord Inc., Commerce City, CO[3]	8747

[1] Request party status and to amend exemption to allow pails to be shipped individually or palletized in groups of up to 48 pails per pallet.
[2] Request party status and to amend exemption to allow pails to be shipped individually or palletized in groups of up to 80 pails per pallet.
[3] Request party status and to allow pails to be shipped individually or in palletized loads of up to 48 pails.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 6, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-13022 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-60-M

[Docket No. 82-3W; Notice 2]

Transportation of Natural and Other Gas by Pipeline; Grant of Waiver

The Northern Border Pipeline Company petitioned the Materials Transportation Bureau (MTB) by letter dated March 19, 1982, for a waiver from compliance with 49 CFR 192.245 with respect to repair of girth weld defects in approximately 635 miles of its 42-inch diameter pipeline in the States of Montana, North Dakota, South Dakota, Minnesota, and Iowa constructed during 1981, and with respect to possible repair of defects in approximately 188 miles to be constructed in 1982. Weld defects to be repaired are those that have been discovered in a post-construction audit of X-ray film that had been interpreted initially by the radiographic contractors as conforming to weld acceptability standards in 49 CFR 192.241(c) which incorporate by reference the criteria in Section 6.0 of API Standard 1104. Pipe containing the nonconforming welds had, at the time of the audit, already been buried and the right-of-way restored.

Under the provisions of the waiver petition, Northern Border proposes to repair girth welds containing cracks and other nonconforming previously repaired welds that would otherwise, according to § 192.245, require removal of entire welds. Unless the referenced regulations are waived, all of the nonconforming welds (estimated to be approximately 570) would have to be removed and replaced by new welds. It is stated in the petition that removal and replacement of a weld would require excavation, cutting out of a pipe section containing the weld, rebevelling the in-place pipe ends, and placement, lining up, clamping, and welding in of a new short pipe length, requiring two new girth welds.

As a result of the petition, the MTB issued Notice 1 (47 FR 16248, April 15, 1982), requesting public comment on whether the waiver should be granted. The comments received are discussed hereafter.

Northern Border presented four reasons in the petition to support weld repair rather than replacement. These were discussed in Notice 1 and include the difficulties associated with cutting out and replacing welds; environmental impact; cost savings estimated to be $12,500,000.00 that will benefit the U.S. consumer if the weld repair procedures are utilized; and detrimental effect to the U.S. consumer if welds are required to be replaced and service through the Northern Border pipeline is delayed.

In further support, weld repair tests have been conducted by Northern Border to qualify repair procedures that Northern Border proposes to use in actual field repair welding. These procedures are stated by Northern Border to be in full compliance with API

Standard 1104, with supplemental Charpy impact toughness testing and weld and heat affected zone microhardness evaluation.

Based upon an initial review of the procedures and data submitted with the petition, the Office of Pipeline Safety Regulation (OPSR) described certain inadequacies in an April 2, 1982, letter to Northern Border and requested a clarifying response. The petition Notice 1, Docket No. 82–3W, enumerated 10 areas of concern of the MTB included in the OPSR letter of April 2, particularly relating to the 5 weld repair procedures that were proposed by Northern Border. Northern Border responded by letter dated April 20, 1982, addressing each area of concern listed in Notice 1 as follows:

1. Northern Border will comply with the applicable sections of the 15th edition of API Standard 1104 as required by Part 192, and will no longer list the 14th edition in their future construction and repair procedures documentation. As stated in Notice 1, the 14th edition has never been incorporated by reference in Part 192.

2. Northern Border stated that weld procedure qualification testing would be performed to conform to Section 2.0 of API Standard 1104, as requested, and in response to an OPSR telegraphic message of April 15, 1982. In that message, the OPSR advised that the welding procedures employed as a part of any weld repair procedure must meet the qualification requirements of § 192.225 and API Standard 1104.

3. Northern Border agreed to revise the Charpy impact requirements in their procedures to 30 ft-lb minimum average (of 3 tests) and 20 ft-lb minimum of any one test at the minimum design temperature of 25 degrees F to be consistent with the original welding procedure. The requirement contained in the procedures submitted with the petition was 25 ft-lb and 15 ft-lb respectively.

4. Northern Border provided pictorial locations of Charpy impact specimens, as requested, and an narrative description of all test results.

5. Northern Border advised that Procedure "C," a procedure which would have used no preheat nor radiography to confirm crack removal for the repair of cracks from the inside of the pipe in environmentally sensitive areas, would be withdrawn. It further advised that Procedure "A" for the removal of backweld cracks by grinding only, where confirmation of crack removal was by magnetic particle inspection only, would include confirmation of crack removal by radiography as requested.

6. Northern Border provided additional clarifying details as to the environmental and construction schedule impacts if the waiver were not granted, and itemized the projected cost savings to be achieved by repairing the questionable welds rather than replacing them.

7. Northern Border provided specification sheets containing required pipe properties, as requested, although abandoning reference to "pipe properties" other than tensile strength as a criterion for repaired weld properties in its revised Spec. No. 658. The required properties of the repaired welds relate to those required for the original qualified procedure.

8. The term "multiple repairs" as used in the Northern Border petition was clarified as meaning two repairs only, or only one repair of a previously repaired area.

9. Northern Border has clarified procedures, as requested, such that they are consistent with the regulations (except for 49 CFR 192.245) and with API Standard 1104.

10. Conditions under which the repair procedures will be applied in future construction were stated by Northern Border as "* * * only in the unlikely event that a defective weld has been buried."

Test data for the repair welding procedure qualification in accordance with Section 2.0 of API Standard 1104 requested in the OPSR telegraphic message of April 15 and revised procedures (Northern Border Spec. No. 658, Rev. 1) were transmitted to the OPSR by letter dated April 28, 1982. All test results were satisfactory, although a change in welding proceure was found necessary for Northern Border Repair Procedure "D." The procedures are summarized as follows (complete copies of the corrected weld repair procedures together with the Northern Border test data for the procedure qualification testing are in the docket):

Procedure "A": Short, transverse shrinkage cracks in back-welds are proposed to be removed by grinding only, and the complete removal to be verified by magnetic particle inspection. Northern Border has asked that this procedure be a part of the waiver petition because of the possibility that the crack may extend into the root bead, which condition was in fact encountered in the qualification trials. For this reason, MTB requested in its telegraphic message of April 15 and Northern Border has agreed, to also inspect using radiography in accordance with API Standard 1104, Section 7.3, to assure that the repaired weld meets the acceptability standards of § 192.241(c).

Procedure "B": Nonthrough wall (partial penetration) cracks are to be repaired by welding either from the inside or the outside of the pipe, using low hydrogen electrodes (AWS A 5.5–69 E8018–C3). A preheat of from 250° to 350°F is required, and the procedures shall conform with Section 7.0 of API Standard 1104. Acceptability shall be determined in accordance with § 192.241(c) and Section 6.0 of API Standard 1104 by radiography.

Procedure "C": Procedure "C," originally proposed in the petition for the repair of defects from the inside of the pipe in environmentally sensitive areas, has been withdrawn by Northern Border. Repair or removal of defective welds in these areas shall comply with the requirements of Part 192 or with weld repair procedures A, B, D, or E, as appropriate.

Procedure "D": Through wall cracks are to be repaired by grinding, drilling holes at the extremities of the crack, sawing through to form a new root bead opening, and grinding to the final repair groove contour. The new root bead and hot pass are to be deposited using E8010–G electrodes, which are to be followed by successive passes using the E8018–C3 low hydrogen electrodes. This procedure will also require preheating from 250° to 350°F and must conform to Section 7.0 of API Standard 1104. Acceptability of the repaired welds shall be determined in accordance with § 192.241(c) and Section 6.0 of API Standard 1104 using radiography.

Procedure "E": Northern Border states that this procedure is to be used in multiple repair, but limits the number of repairs to two. The written procedure (Northern Border Pipeline Company Spec. No. 658, Rev. 1) states: "If the defect has not been removed and/or the multiple repair area does not meet API 1104, the weld shall be cut out as a cyclinder and a replacement section installed." Other requirements of this procedure are the same as for Procedure "B," using only E8018–C3 electrodes and the same 250° to 350°F preheat.

All of the destructive tests performed as a part of qualification of the repair procedures submitted with the petition and in response to the telegraph of April 15 met the same requirements as for the original welding procedure with the exception of Charpy impact testing of a repair made in accordance with the original Procedure "D" submitted with the petition. An average of three specimens marginally failed to meet the specified minimum average impact toughness of 30 ft-lb (for full-size specimens) when tested at 25°F. Northern Border retested remaining

samples from the repair weld, and the retest results marginally met the requirement. Further impact testing of the revised weld repair procedure "D" in response to the telegraph of April 15 as reported on April 28 resulted in considerably higher toughness values, both for the original weld and for the repaired weld. The weld tested for the revised Procedure "D" was a weld made for the test rather than a field weld containing a crack as in the test results submitted with the petition. Charpy impact toughness was apparently increased as a result of the repair procedure modification (adding an E8010 hot pass). On this basis, MTB believes that favorable action on the petition is appropriate but should be conditional, as stated later in this notice.

After review and consideration of all of data submitted by Northern Border, MTB finds that a conditional waiver from the provisions of § 192.245 for the welds in question is appropriate and consistent with pipeline safety for the following reasons:

1. Experience gained in the granting of previous weld repair waivers supports the conclusion that it is feasible to make an acceptable repair to a crack in a weld or to make acceptable multiple repairs on a weld if qualified repair procedures are used to assure the integrity of the weld.

2. Adequate repair procedures have been developed and documented by the Northern Border Pipeline Company which will produce sound, ductile welds when the repairs are completed.

3. Comprehensive tests including destructive tests meeting § 192.225 have been performed to duplicate the actual repair conditions. The results of these tests demonstrate that the conditions under which the welds are repaired will provide welds having mechanical properties at least equal to the specified minimum mechanical properties required by the original welding procedure.

4. Field nondestructive testing of the repaired weld meeting the appropriate requirements of § 192.243 will confirm that the completed repair meets the acceptability requirements of § 192.241(c).

5. The Federal Inspector will monitor the repairs and enforce strict adherence to the documented procedures so as to assure sound, ductile weld repairs.

6. Removal of each weld containing the defect by cutout and replacing with a short section of pipe requiring two new girth welds to be made under difficult field conditions would not improve the quality of the weld integrity on the pipeline.

7. The cost of repairing the individual weld defects will be substantially less than the construction cost of replacing entire welds and that the savings will accrue to the consumer.

8. Delays in initiating service and environmental disruptions that would otherwise occur will be avoided.

9. Public safety will be best served by verificaiton that all injurious weld defects have been identified and have been satisfactorily repaired in accordance with the terms and conditions of any waiver issued.

Three comments were received in response to the invitation to comment in Notice 1. Comments from the American Petroleum Institute and the Northern Natural Gas Company both were supportive of the granting of the waiver and did not state further reservations or conditions. The comment from the Iowa State Commerce Commission was supportive of granting the waiver, but stated:

> A waiver of § 192.245 to the extent necessary to permit repair by grinding instead of replacement and to eliminate the inapplicable preheating requirement appears appropriate. However, the repaired area should be subjected to radiographic inspection to determine final acceptability and Northern Border should be required to modify its proposed Appendix A procedure to include this.

In response to a request by MTB, Northern Border has agreed to confirm removal of the weld defect in Procedure "A" by radiographic inspection, and this is part of the waiver. The Iowa Commission also expressed concern about Appendix C internal weld crack repair for environmentally sensitive areas. Following the concern expressed by MTB as noted earlier, Northern Border has withdrawn Appendix C procedures.

The Iowa Commission also discussed some of its problems about Appendix D Weld crack repair procedure for complete pipe wall penetration. However, apparently information it obtained in personal communications between its staff and Northern Border has alleviated those concerns. In addition, the waiver conditions MTB is imposing upon Appendix D procedures should further answer the Iowa Commission's questions about that procedure.

Northern Border's petition requested that relief be granted on an expedited basis pursuant to Section 9 of the Alaska Natural Gas Transportation Act (ANGTA) (15 U.S.C. 719g). As MTB discussed in Notice 1, it would expedite its actions under the Natural Gas Pipeline Safety Act (NGPSA) by shortening the normal 30-day period for public comment to 15 days in view of the need for expeditious construction and initial operation of the pipeline. MTB's actions are consistent with assurances to the public that the pipeline welds containing defects will meet the acceptability standards of Part 192 when repair is completed.

In accordance with Section 102(c) of Reorganization Plan No. 1 of 1979, 44 FR 33663 (June 12, 1979), and Executive Order 12142, 44 FR 36927 (June 25, 1979), the terms and conditions for any waiver granted would be enforced by the Federal Inspector. This is true also for enforcement of all of 49 CFR Part 192 on pipelines subject to ANGTA. Accordingly, on April 26, 1982, the MTB Director wrote Federal Inspector John T. Rhett, requesting a description of how the Federal Inspector's "field organization will enforce the terms and conditions of any waiver granted in this matter. This description should include the number of personnel involved with enforcement, the duties and responsibilities of these personnel, and a description of documentation which will be used to assure compliance." The Federal Inspector responded by a letter of April 30, 1982, to the MTB providing details of the enforcement procedures to be used to assure compliance with the terms and conditions of the waiver and the monitoring for compliance with Part 192 regulations. Copies of these letters are in the Docket.

Accordingly, effective immediately, the Northern Border Pipeline Company is hereby granted a waiver from compliance with 49 CFR 192.245 for the remedial weld program and the 1982 period of construction of the Northern Border pipeline subject to the following conditions.

1. Because of the wide difference in impact test results obtained in the first and second series of weld procedure qualification tests performed by Northern Border for Procedure "D," and because the effectiveness of the revised procedure (addition of a hot pass using the E8010–G electrode) has not been demonstrated in prior actual repair of cracks in X–70 grade pipe welds, MTB believes that additional precautionary nondestructive testing is necessary to assure that other unforeseen weld ductility problems will not occur when using this procedure. For this reason, additional verification through delayed radiography is made a condition of this waiver. In order to demonstrate the reliability of the procedure, each of the first 10 welds to be repaired by Procedure "D" shall be radiographically inspected in accordance with API Standard 1104 at least 24 hours after the

repair has been completed in addition to the radiographic examination specified by Northern Border in Spec. No. 658, Rev. 1. If no cracking is detected by the second radiographic examination of the first 10 repair welds utilizing Procedure "D," no further delayed radiography is required. If, however, any cracking is revealed in the delayed radiography of the first 10 repair welds, all repairs made thereafter using Procedure "D" must be nondestructively tested by delayed radiography to be performed at least 24 hours after the repair has been completed.

2. Because of the possible wide variation in electrode properties and the limited number of destructive tests which have been performed, the electrodes used in any repair welding procedure under this waiver shall be identical as far as is possible as to type, chemical composition, and mechanical properties requirements as the electrodes used in qualifying the repair welding procedure.

3. Northern Border has indicated in its April 20 letter that the repair procedures under this waiver would be used on 1982 construction only if a weld containing an unacceptable defect had been buried. Before any weld is repaired by one of the procedures herein, on a weld made during 1982 construction season, the Office of the Federal Inspector (OFI) must first be notified.

Copies of the Northern Border Pipeline Company Weld Repair Procedures "A," "B," "D," and "E" are contained in the docket file and have been provided to the OFI for surveillance and enforcement action.

(49 U.S.C. 1672; 49 CFR 1.53, Appendix A of Part 1)

Issued in Washington, D.C., on May 5, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-12665 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Solicitation of Proposals for Grants; Public Transportation Technology Introduction; and Innovative Techniques and Methds Programs.

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice.

SUMMARY: The Urban Mass Transportation Administration (UMTA) announces that it is extending the due date for proposals for the Section 3(a)(1)(C) program, Technology Introduction, and the Section 4(i) program, Innovative Techniques and Methods in the Management and Operation of Public Transportation, for Fiscal Year 1983.

DATES: Proposals for the Section 3(a)(1)(C) program and the Section 4(i) program are due July 12, 1982 in the appropriate UMTA Regional Offices.

FOR FURTHER INFORMATION CONTACT: William Murray, telephone (202) 426-2896, for the Section 3(a)(1)(C) program. Joseph Goodman, telephone (202) 426-4984, for the Section 4(i) program. Both individuals are located at the Urban Mass Transportation Administration, 400 7th Street S.W., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: UMTA intends to publish shortly formal circulars for the implementation of these programs. In the interim, proposals for the Section 3(a)(1)(C) program should follow procedures set forth in the January 19, 1981, **Federal Register** (46 FR 5832). Proposals for the Section 4(i) program should follow administrative procedures set forth in the December 1, 1980, **Federal Register** (45 FR 79670). A list of major categories of innovations that should be considered for the Section 4(i) program has been mailed to transit properties and is available at UMTA headquarters and regional offices. This solicitation was previously announced in a Notice published in the **Federal Register** on March 11, 1982 (47 FR 10701). In that Notice proposals were due on May 10, 1982. In this Notice, we are extending the due date until the date indicated under "DATES", above.

The Technology Introduction program was initiated to assist in financing the introduction into public transportation service of new innovative technology to span the gap that exists between the technical feasibility stage of research and development and the introduction of new proven equipment into revenue service.

The Innovative Techniques and Methods program was begun to further the national adoption of innovative techniques that will reduce the cost of transportation, increase transit system revenues, and increase opportunities for private sector involvement.

Arthur E. Teele, Jr.,

Administrator.

[FR Doc. 82-12850 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

During the period April 30 through May 6, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. N.W., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.

Date Submitted: April 30, 1982.

Submitting Bureau: U.S. Customs Service.

OMB Number: N/A (new).

Form Number: CF 300.

Type of Submission: New.

Title: Bonded Warehouse Proprietor Submission.

Purpose: Will reflect all bonded merchandise entering, released and manipulated in the bonded warehouse, i.e., a complete reconciliation of beginning and ending inventory as well as all receipts/withdrawals and documentation of all breakage by entry number.

OMB Reviewer: Karen P. Sagett (202) 395-6880, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: May 4, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0626.

Form Number: SER 2333VT.

Type of Submission: Extension (no change).

Title: VITA/TCE Order for Training Material.

Purpose: Used by non-IRS VITA and TCE coordinators to request training materials for VITA and TCE classes.

OMB Reviewer: Karen P. Sagett (202) 395-6880, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,

Departmental Reports Management Officer.

[FR Doc. 82-12991 Filed 5-12-82; 8:45 am]

BILLING CODE 4810-25-M

Comptroller of the Currency

[Delegation Order 21; Docket No. 82-6]

Order of Succession To Act as Comptroller

By virue of the authority contained in 12 U.S.C. 4 and by Treasury Department Order No. 129 (Rev. No. 2) dated April 22, 1955, it is hereby ordered as follows:

A. The following officers in the Bureau of the Comptroller of the Currency, in the order of succession enumerated, shall possess the power and perform the duties attached by law to the Office of the Comptroller of the Currency as provided by 12 U.S.C. 4:

(1) Doyle L. Arnold, Senior Deputy Comptroller for Policy and Planning.

(2) H. Joe Selby, Senior Deputy Comptroller for National Operations.

(3) Paul M. Homan, Senior Deputy Comptroller for Bank Supervision.

(4) William A. Longbrake, Senior Deputy Comptroller for Resource Management.

B. In the event of any enemy attack on the continental United states, all regional administrators of national banks, including any acting regional administrators, are authorized in their respective regions to perform any function of the Comptroller of the Currency, or the Secretary of the Treasury, whether or not otherwise delegated, which is essential to the carrying out of responsibilities otherwise assigned to them. The respective officers will be notified when they are to cease exercising the authority delegated in this paragraph.

C. Delegation Order No. 20 is hereby repealed.

Dated: May 5, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-13050 Filed 5-12-82; 8:45 am]

BILLING CODE 4810-33-M

Customs Service

[067570]

Receipt of Domestic Interested Party Petition Concerning Classification of Chinaware

AGENCY: U.S Customs Service, Treasury.

ACTION: Notice of receipt of domestic interested party petition.

SUMMARY: The Customs Service has received a petition from a trade association representing American manufacturers of hotel or restaurant chinaware. The petitioner contends that certain imported chinaware classified as "household ware" should be classified instead as "hotel or restaurant ware", subject to a higher rate of duty. This document invites comments with regard to the correctness of the classification.

DATES: Interested parties may comment on this petition, and comments (preferably in triplicate) must be received on or before July 12, 1982.

ADDRESS: Comments may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lindmeier, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5727).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by the American Restaurant China Council, Inc., a trade association which represents American manufacturers of hotel or restaurant chinaware. The petitioner contends that certain imported chinaware which has been classified by Customs under the provision for household ware of bone chinaware, in item 533.54, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), is actually used as hotel chinaware, and thus is properly classifiable under the provision for hotel or restaurant ware and other ware not household ware, in item 533.52, TSUS. The duty on chinaware for hotel or restaurant use is higher then the duty on chinaware for household use.

Comments

Pursuant to § 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments on this petition from interested parties.

The domestic interested party petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between the hours of 9:00 a.m. to 4:30 p.m. on normal business days, at the Regulations Control Branch, Headquarters, U.S. Customs Service, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This notice is published in accordance with § 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: March 1, 1982.

John P. Simpson,

Director, Office of Regulations and Rulings.

[FR Doc. 82-13067 Filed 5-12-82; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 93
Thursday, May 13, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:00 p.m. on Monday, May 10, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York (Case No. 45,214–L (Amended)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter 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 matter in a meeting open to public observation; and that matter could be considered in a closed meeting pursuant ot subsection (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B)).

Dated: May 10, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–713–82 Filed 5–11–82; 12:57 pm]

BILLING CODE 6714–01–M

2

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 18, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance, Litigation, Audits, Personnel.

* * * * *

DATE AND TIME: Thursday, May 20, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meeting correction and approval of minutes
Advisor opinions:
Draft AO 1982–31: Eric S. Koenig
Draft AO 1982–33: Bernard J. Mondi, Williams Project '76
Letter from Senator Mathias re Citizens' Research Foundation and Request From CFR re Waiver of Fees
Proposed Legislative Recommendations (continued from May 13, 1982, if necessary)
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PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065

Majorie W. Emmons,

Secreary of the Commission.

[S–714–82 Filed 5–11–82; 3:36 am]

BILLING CODE 6715–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: 10 a.m., May 17, 1982 (re-scheduled from May 7, 1982).

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: *Mid Louisiana Gas Company, et al.*, v. *FERC*, 5th Cir. Nos. 80–3804 and 80–4010.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357–8400.

Kenneth F. Plumb,

Secretary.

[S–712–82 Filed 5–11–82; 9:03 pm]

BILLING CODE 6717–02–M

federal register

Thursday
May 13, 1982

Part II

Department of Education

Pell Grant Program; Cost of Attendance; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 690

Pell Grant Program; Cost of Attendance

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary is giving notice that the regulations to be used in determining a student's cost of attendance under the Pell Grant Program for the 1982–83 award year will be the same cost of attendance regulations that were in effect for the 1981–82 award year. The Secretary makes two nonsubstantive changes to these regulations.

EFFECTIVE DATE: Unless the Congress take certain adjournments, these regulations will take effect 45 days after publication in the **Federal Register.** If you want to know the effective date of these regulations, call or write the Department of Education contact person. At a later date the Secretary will publish a notice in the **Federal Register** stating the effective date of these regulations. When these regulations become effective, they will apply to Pell Grant awards made for the 1982–83 award year (beginning July 1, 1982).

FOR FURTHER INFORMATION CONTACT: Mr. Brian Kerrigan or Ms. Andrea Foley, U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue, SW., (Room 4318, Regional Office Building 3), Washington, D.C. 20202, Telephone (202) 472–4300.

SUPPLEMENTARY INFORMATION: On December 15, 1981, the third continuing resolution for fiscal year 1982, Pub. L. 97–92, was enacted. As an effort to reduce Federal expenditures and curb inflation, this legislation authorizes the Secretary to establish cost of attendance provisions under the Pell Grant Program for the 1982–83 award year, thus overriding the cost of attendance liberalizations for that program that were included in the Education Amendments of 1980, Pub. L. 96–374. The provisions of Pub. L. 97–92 were extended to cover the entire 1982 fiscal year by the fourth continuing resolution for fiscal year 1982, Pub. L. 97–161.

The Secretary is adopting the cost of attendance provisions under the Pell Grant Program regulations, published in the **Federal Register** on July 22, 1981 (46 FR 37862–37864) that were in effect for the 1981–82 award year and for the 1982–83 award year (beginning July 1, 1982) except for the two non-substantive changes explained below. The changes are as follows:

1. The statutory citation at the end of each section of Subpart E—Costs of Attendance would be changed from Pub. L. 97–12 (applicable for the 1981–82 award year) to Pub. L. 97–161 (applicable for the 1982–83 award year) to reflect current legislation.

2. An error would be corrected in § 690.53 of the July 22, 1981 regulations concerning the proration of the board allowance when a student enters into a contract with the institution for board for less than seven days a week.

Executive Order 12291

These regulations have been reviewed by the Department in accordance with the Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies these regulations will not have a significant economic impact on a substantial number of small entities. These regulations will only affect the determination of a student's cost of attendance and the amount of the Pell Grant award a student receives.

Assessment of Educational Impact

Based on the absence of any comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is being gathered by or is available from any other agency or authority of the United States.

Waiver of Notice of Proposed Rulemaking

These regulations provide that the cost of attendance components to be used in determining a student's Pell Grant for the 1982–83 award year will be the same as those used in the 1981–82 award year which were published in the **Federal Register** on July 22, 1981. The 1982–83 award year begins on July 1, 1982. Thus, the Secretary finds that publication of a proposed rule in this instance would be unnecessary, impracticable and contrary to the public interest within the meaning of 5 U.S.C. 553(b), and is publishing these rules as final regulations.

List of Subjects in 34 CFR Part 690

Administrative practice and procedure, Education, Education of disadvantaged, Grant programs—education, Student aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number 84.063, Pell Grant Program)

Dated: May 6, 1982.

T. H. Bell,

Secretary of Education.

PART 690—PELL GRANT PROGRAM

The Secretary amends Part 690 of Title 34 of the Code of Federal Regulations as set forth below:

§§ 690.51 through 690.58 (Subpart E) [Amended]

1. In Subpart E, the statutory citation at the end of each section is revised to read: (Pub. L. 97–161)

2. In § 690.53, paragraph (c) is revised to read as follows:

§ 690.53 Room and board.

* * * * *

(c) If a student enters into a contract with the institution for board for less than seven (7) days a week, a daily rate will be computed based upon an allowance of $625 for board and used for those days of the academic year not covered by the contract. This amount will be added to the costs established under the applicable subparagraph (1) or (2) of paragraph (a) of this section.

(Pub. L. 97–161)

[FR Doc. 82–13048 Filed 5–12–82; 8:45 am]

BILLING CODE 4000–01–M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
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DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing May 7, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 2373 / Pub. L. 97–175 To change the name of the landing strip at White Sands Missile Range in the State of New Mexico, to "White Sands Space Harbor". (May 11, 1982; 96 Stat. 77) Price: $1.75.