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federal register

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

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 559]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 7–13, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: January 7, 1983.

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

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel 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). This action is based upon the recommendations and information submitted by the Navel 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 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on January 4, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is easier.

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 is 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. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

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

PART 907—[AMENDED]

1. Section 907.859 is added as follows:

§ 907.859 Navel Orange Regulation 559.

The quantities of navel oranges grown in Arizona and California which may be handled during the period January 7, 1983, through January 13, 1983, are established as follows:

(1) District 1: 1,400,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

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

Dated: January 5, 1983.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-542 Filed 1-5-83; 11:37 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 27, 29, and 91

[Docket No. 14237; SFAR No. 29–4]

Special Federal Aviation Regulation No. 29; Limited IFR Operations of Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends the effectivity of Special Federal Aviation Regulation (SFAR) No. 29–3, which allows limited operations under instrument flight rules (IFR) of certain normal and transport category rotorcraft that are limited by their type certificates to operations under visual flight rules (VFR). The extension is necessary to prevent imposing any economic burden upon those operators already authorized, equipped, and qualified to conduct operations under SFAR No. 29, which would occur if SFAR 29–3 were permitted to terminate before Amendment No. 1 of the Rotorcraft Regulatory Review Program is issued and effective.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mike Sacrey or Win Karish; Operations Branch (AFO–820); General Aviation & Commercial Division; Office of Flight Operations; Federal Aviation Administration; 800 Independence Ave., SW., Washington, D.C. 20591; telephone (202) 426–8194.

SUPPLEMENTARY INFORMATION:

Background

Under Part 27 or Part 29 of the Federal Aviation Regulations (FAR), a rotorcraft is certificated for VFR operation only, unless it has been shown that the rotorcraft fully complies with all of the airworthiness requirements for

instrument flight rules (IFR) operations. Since certain IFR operations can be safely conducted with rotorcraft that do not meet all of the present flight characteristic requirements, SFAR No. 29 was adopted by the Administrator on January 3, 1975 (40 FR 2420; January 13, 1975). SFAR No. 29 allowed the Administrator to issue approvals for such operators, on an interim basis, pending the conclusion of a study to determine whether a "limited" IFR category should be established for these rotorcraft, including flight characteristics and equipment requirements, operating procedures and limitations, flightcrew requirements, and training requirements. The expiration date of SFAR No. 29, as amended by SFAR No. 29–3 (45 FR 71919; October 30, 1980), is December 31, 1982.

The FAA has established a Rotorcraft Regulatory Review Program which will involve a comprehensive review and upgrading of requirements. This program will consider the development of IFR airworthiness standards for rotorcraft certification in Parts 27 and 29 of the FAR. It will not be concluded by the December 31, 1982, termination date of SFAR No. 29–3.

Discussion

If SFAR No. 29 were to expire before completing the rulemaking action generated by the Rotorcraft Regulatory Review Program, there would be no regulatory basis to allow continued IFR rotorcraft operations, thereby creating an undue burden for those operators of helicopters meeting the criteria specified in SFAR No. 29.

Pending the issuance and effectivity of new standards to be established by Amendment No. 1 of the Rotorcraft Regulatory Review Program, the FAA believes that it is in the public interest to allow continued IFR operations with certain rotorcraft that do not meet all of the present requirements of Parts 21, 27, 29, and 91 of the FAR. With the issuance of SFAR No. 29–4, operators may continue to apply for SFAR 29 approvals until Amendment No. 1 of the Rotorcraft Regulatory Review Program (Amendment No. 1) is effective. After Amendment No. 1 is effective, all applicants for certification of IFR rotorcraft operations will have to comply with the applicable provisions of that amendment. When Amendment No. 1 becomes effective, SFAR No. 29–4 (and approvals issued under SFAR Nos. 29 through 29–4) will remain effective for operators holding approvals obtained before the effective date of Amendment No. 1. SFAR 29–4 will terminate when all approvals issued under SFAR Nos. 29 through 29–4 are surrendered, revoked, or otherwise terminated.

Need for Immediate Adoption

Since this amendment temporarily extends the effectivity of a rule which permits continued IFR rotorcraft operations by operators equipped and qualified to comply with Special Federal Aviation Regulation No. 29 and therefore imposes no additional burden on any person, I find that notice and public procedure are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

List of Subjects

14 CFR Part 21

Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 27

Air transportation, Aircraft, Aviation safety, Safety, Tires, Rotorcraft.

14 CFR Part 29

Air transportation, Aircraft, Aviation safety, Safety, Tires, Rotorcraft.

14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Aircraft pilots, Air traffic control, Pilots, Airspace, Air transportation, Airworthiness directives and standards.

Amendment

Accordingly, Special Federal Aviation Regulation No. 29, as amended by Special Federal Aviation Regulation No. 29–3 (14 CFR Parts 21, 27, 29, and 91), is reissued and amended to read as follows, effective January 1, 1983:

SPECIAL FEDERAL AVIATION REGULATION

SFAR No. 29–4

LIMITED IFR OPERATIONS OF ROTORCRAFT

1. Contrary provisions of Parts 21, 27, and 29 of the Federal Aviation Regulations notwithstanding, an operator of a rotorcraft that is not otherwise certificated for IFR operations may conduct an approved limited IFR operation in the rotorcraft when—

(a) FAA approval for the operation has been issued under paragraph 2 of this SFAR;

(b) The operator complies with all conditions and limitations established by this SFAR and the approval; and

(c) A copy of the approval and this SFAR are set forth as a supplement to the Rotorcraft Flight Manual.

2. FAA approval for the operation of a rotorcraft in limited IFR operations may be issued when the following conditions are met:

(a) The operation is approved as part of the FAA study of limited rotorcraft IFR operations.

(b) Specific FAA approval has been obtained for the following:

(i) The rotorcraft (make, model, and serial number).

(ii) The flightcrew.

(iii) The procedures to be followed in the operation of the rotorcraft under IFR and the equipment that must be operable during such operations.

(c) The conditions and limitations necessary for the safe operation of the rotorcraft in limited IFR operations have been established, approved, and incorporated into the operating limitations section of the Rotorcraft Flight Manual.

3. An approval issued under paragraph 2 of this Special Federal Aviation Regulation and the change to the Rotorcraft Flight Manual specified in paragraph 2(c) of this Special Federal Aviation Regulation constitute a supplemental type certificate for each rotorcraft approved under paragraph 2 of this SFAR. The supplemental type certificate will remain in effect until the approval to operate issued under the Special Federal Aviation Regulation is surrendered, revoked, or otherwise terminated.

4. Notwithstanding § 91.23(a)(3) of the Federal Aviation Regulations, a person may operate a rotorcraft in a limited IFR operation approved under paragraph 2(a) of the Special Federal Aviation Regulation with enough fuel to fly, after reaching the alternate airport, for not less than 30 minutes, when that period of time has been approved.

5. Expiration.

(a) New applications for limited IFR rotorcraft operations under SFAR No. 29 may be submitted for approval until, but not including, the effective date of Amendment No. 1 of the Rotorcraft Regulatory Review Program. On and after the effective date of Amendment No. 1 of the Rotorcraft Regulatory Review Program, all applicants for certification of IFR rotorcraft operations must comply with the applicable provisions of the Federal Aviation Regulations.

(b) This Special Federal Aviation Regulation will terminate when all approvals issued under Special Federal Aviation Regulation No. 29 are surrendered, revoked, or otherwise terminated.

(Secs. 313(a), 601(a), and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421(a), and 1423) and section 6(c) of the

Department of Transportation Act (49 U.S.C. 1655(c))]

Note.—Since this document only extends the effectivity of a current regulation and does not impose a burden on the public or aviation industry, the FAA has determined that this document involves a regulation which is not a major rule under Executive Order 12291, is not a significant rule under Department of Transportation Regulatory Policies and Procedures (44 F.R. 11034; February 26, 1979), and does not warrant preparing a regulatory evaluation because the anticipated impact is minimal. For the same reason, I certify that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on December 28, 1982.

Michael J. Fenello,

Deputy Administrator.

[FR Doc. 82-35600 Filed 12-30-82; 2:58 pm]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-ANE-48; Amdt. 39-4521]

Airworthiness Directives; McCauley Accessory Division, C200, C300, and C400 Series Constant Speed Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain McCauley C200, C300, and C400 series propellers, which requires a one-time dye penetrant inspection of the propeller blades for cracks or forging "folds" in the shank area. The AD is necessary to prevent possible blade shank failure.

DATES: Effective—December 30, 1982.

Compliance required within the next 10 hours time in service after the effective date of the AD unless already accomplished.

Comments on the rule must be received on or before February 28, 1983.

ADDRESSES: The applicable service information may be obtained from McCauley Accessory Division, Cessna Aircraft Company, 3535 McCauley Drive, P.O. Box 430, Vandalia, Ohio 45377.

A copy of the applicable service information and a historical file on this AD are contained in the Rules Docket at the Office of Regional Counsel, FAA, New England Region, Attn: Rules Docket No. 82-ANE-48, 12 New England Executive Park, Burlington, Massachusetts 01803 and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Henry L. Weiss, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-7134

SUPPLEMENTARY INFORMATION: There have been reports of forging defects in certain propeller blades which have led to blade fatigue failure. The suspect blades are isolated to a group of propeller blades manufactured beginning in November 1979. Since this condition is likely to exist or develop in other propeller blades of the same type, an AD is being issued which requires a one-time dye penetrant inspection of the shank area for cracks for forging "folds" in the suspect group.

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

Request for Comments on the Rule

Although this action which involves requirements affecting immediate flight safety is in the form of a final rule and thus was not preceded by notice and public comment, comments are now 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. Public comments are helpful in evaluating the effects of the rule and in determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule. Send comments to FAA, Office of Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

List of Subjects in 14 CFR Part 39

Propellers, Aircraft, and Aviation safety.

Adoption of the Amendment

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

McCauley Accessory Division: Applies to the following McCauley Accessory Division C200, C300, and C400 series constant speed propellers with blade serial numbers as identified below that are installed on, but not limited to, the aircraft listed below:

Aircraft	Propeller model/blade model
Cessna R172K	2A34C203/90DCA-10 or 90DCA-14.
Cessna 177RG	B2D34C207/78TCA-0.
Cessna 180G-J	2A34C201/90DA-8.
Cessna 180G-J	2A34C203/90DCA-2 or 90DCA-8.
Cessna 180K	C2A34C204/90DCB-8.
Cessna 182M-P	2A34C201/90DA-8.
Cessna 182M-P	2A34C203/90DCA-8.
Cessna 182Q	C2A34C204/90DCB-8.
Cessna R182 (pre-1980)	B2D34C214/90DHB-8.
Cessna R182 (1980-on)	B2D34C218/90DHB-8.
Cessna TR182 (pre-1980)	B2D34C217/90DHB-8.
Cessna TR182 (1980-on)	B2D34C219/90DHB-8.
Cessna T182	B2D34C219/90DHB-8.
Cessna A185F	D3A34C403/80VA-0.
Cessna T188C	D3A34C402/90DFA-10.
Cessna TU206G	D3A34C402/90DFA-10.
Cessna U206G	D3A34C404/80VA-0.
Cessna T207A	D3A34C401/90DFA-10.
Cessna P210N,T210M,N	D3A34C402/90DFA-10.
Cessna 210N	D3A34C404/80VA-0.
Cessna T337G,H,P337H	D2AF34C308/90DEA-12.
Cessna 337G,H	D2AF34C310/90DEA-12.
Mooney M20J (201)	B2D34C214/90DHB-16E.
Mooney M20K (231)	2A34C216/90DHB-16E.
Reims FR172K	2A34C203/90DCA-14.
Reims F177RG	B2D34C207/78TCA-0.
Reims F182P	2A34C201/90DA-8.
Reims F182P	2A34C203/90DCA-8.
Reims F182Q	C2A34C204/90DCB-8.
Reims FR182 (pre-1980)	B2D34C214/90DHB-8.
Reims FR182 (1980-on)	B2D34C218/90DHB-8.
Reims F337G	D2AF34C310/90DEA-12.
Reims FT337GP	D2AF34C308/90DEA-12.

APPLICABLE BLADE SERIAL NUMBERS

Serial No.	Blade type
B117210 through B117249	90DEA-12 and 90DA-8.
B117290 through B117329	90DCB-8.
B117410 through B117529	90DHB-16E and 78TCA-0.
B117610 through B117649	90DCB-8.
B117730 through B117769	90DHB-8 and 78TCA-0.
B117890 through B117969	90DCB-8.
B118090 through B118169	90DHB-8.
B118254 through B118369	90DHB-8.
B119170 through B119249	90DHB-16E and 90DHB-8.
B119290 through B119449	90DCA-2, 90DCA-8, 90DCA-10, and 90DCA-14.
B119450 through B119489	90DA-8.
B119490 through B119529	90DEA-12.
B120345 through B120364	90DCA-14.
B120485 through B120524	90DEA-12.
B120667 through B120686	90DCA-10.
B120687 through B120929	90DHB-16E.
B121063 through B121262	90DCB-8 and 90DHB-16E.
B121450 through B121489	90DCB-8.
B121690 through B121969	90DHB-8.
B121970 through B122049	90DCA-14.
B122050 through B122089	90DCA-8.
B122090 through B122129	90DHB-16E.
B126956 through B126979	90DFA-10.
BC551 through BC638	80VA-0.
BC719 through BC750	80VA-0.
BC752 through BC790	80VA-0.
BC815 through BC839	80VA-0.
BC893 through BC908	80VA-0.
BC910 through BC919	80VA-0.
BC951 through BC974	80VA-0.
BC991 through BC1030	80VA-0.
BK321 through BK362	80VA-0.
BK371 through BK400	80VA-0.
BK441 through BK460	80VA-0.
BK481 through BK560	80VA-0.

Note.—McCauley Accessory Division Service Bulletin 146 provides additional background information for identifying propeller applicability.

Compliance required, within the next 10 hours time in service after the effective date of this AD, unless already accomplished.

To prevent possible propeller blade shank failure, accomplish the following:

(a) Dye penetrant inspect the blade shank area for cracks or forging "folds" in accordance with McCauley Accessory Division Service Bulletin SB146 dated December 3, 1982, or FAA approved equivalent. Extreme caution must be exercised when removing paint and blade anodize to prevent corrosive liquids from entering the propeller hub. If evidence of cracks or forging "folds" is found replace the blade with a serviceable blade before further flight.

(b) A special flight permit may be issued in accordance with Federal Aviation Regulations (FARs) 21.197 and 21.199 to operate the aircraft to a base where this AD can be accomplished.

(c) Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA 2300 East Devon Avenue, Des Plaines, Illinois 60018.

This amendment becomes effective December 27, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); Sec. 1189 Federal Aviation Regulation (14 CFR 11.89))

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

Issued in Burlington, Massachusetts, on December 10, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-6 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket Number 82-ACE-24]

Alteration of Transition Area; Cherokee, Iowa; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects a rule appearing in FR Doc. 82-31919 on page 52409 in the issue of Monday, November 22, 1982. Subsequent to the issuance of this rule, it has been determined that the coordinates and name of the NDB were incorrectly cited.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Dwaine 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: Subsequent to the issuance of this Final Rule on November 22, 1982, altering the transition area at Cherokee, Iowa, it has been determined that the geographical coordinates and the name of the NDB were incorrectly cited. Action is taken herein to make these corrections. Since the changes are editorial in nature, notice and public procedure thereon are not considered necessary.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Correction

[Airspace Docket No. 82-ACE-24]

FR Doc. 82-31919, appearing at page 52409 in the **Federal Register** of November 22, 1982, line 4 of the description of the transition alteration reading "(latitude 42°44'15"N, longitude 95°33'20"W)" is changed to read "(latitude 42°43'55"N, longitude 95°33'22"W)" and line 6 of said description reading "bearing from Cherokee NDB latitude" is changed to read "bearing from Pilot Rock NDB latitude)."

(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)); Section 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this correction of a 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 correction to a final 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 December 17, 1982.

John E. Shaw,

Acting Director, Central Region

[FR Doc. 83-78 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASO-56]

Alteration of Control Zone, Anderson, South Carolina

Correction

In FR Doc. 82-34928 beginning on page 57486 in the issue of Monday, December 27, 1982, make the following change on page 57487: In the middle column, the tenth line, the latitude should read "34° 29' 40" N.".

BILLING CODE 1505-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 323

[Amdt. No. 7; Docket 40916]

Terminations, Suspensions, and Reductions of Service

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB exempts, from the notice requirements of the Federal Aviation Act and 14 CFR Part 323 (Terminations, Suspensions, and Reductions of Service) airlines that are bumped from providing essential air service. This action is taken to conform the CAB's notice rule with its new procedures for replacing subsidized airlines at small communities, which are being issued simultaneously.

DATES: Adopted: December 22, 1982. Effective: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: The Board's notice of termination rule (14 CFR Part 323) generally requires airlines to notify the Board and the community before ending service at a community or reducing service there below the essential level. The purpose of the notice is to give the Board and the community time to find a replacement. By PR-253, issued today, the Board adopted procedures under which an airline serving a community with subsidy may be replaced by another airline offering to provide better service or service at a lower subsidy cost. Since

under these procedures the incumbent carrier cannot leave until the new carrier has begun service (See § 326.8(b)), there appears to be no reason to require the incumbent to file notice or to delay its departure.

The Board is therefore exempting incumbent carriers that are "bumped" from the notice requirement of the Act and Part 323. This exemption will be good only for 90 days after the new carrier begins service. If the incumbent has not ended service at the community by that time, its notice obligations, if any, will come back into force. The reason for limiting the exemption period to 90 days is that after that time the community may have come to rely on the continuation of the incumbent carrier's service. This exemption period was chosen to be consistent with the grace period for a termination notice's effectiveness in § 323.17.

The exemption period begins when the new carrier actually begins providing the essential service, not when the Board grants the bumping application.

In PDR-81, 47 FR 37914, August 27, 1982, this exemption, with the 90-day grace period, was proposed and no adverse comments were received.

Since the bumping provisions of the Act take effect on January 1, 1983, the Board finds good cause for making this rule effective on less than 30 days' notice.

List of Subjects in 14 CFR Part 323

Air carriers, Essential air service.

PART 323—[AMENDED]

Accordingly, the Board revises 14 CFR Part 323, *Terminations, Suspensions, and Reductions of Service,* as follows:

1. Authority for Part 323 is:

Authority: Secs. 204, 401, 407, 411, and 419, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 766, 769, 92 Stat. 1732; 49 U.S.C. 1324, 1371, 1377, 1381, 1389.

2. Sections 323.8 is amended by moving the "and" at the end of paragraph (a) to the end of paragraph (b), changing the period at the end of paragraph (b) to a semicolon, and adding a new paragraph (c) to read as follows:

§ 323.8 Exemptions.

* * * * *

(c) Sections 401(j) and 419 of the Act and all the provisions of this part to the extent that those provisions would otherwise require them to file a notice when terminating or suspending service at an eligible point at which they have been replaced under Part 326 of this chapter. This exemption shall apply only if the carrier terminates or suspends service on, or within 90 days after, the date that the new carrier begins service.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-225 Filed 1-5-83; 8:45 am]

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14 CFR Part 389

[Amdt. No. 30; Docket Nos. 30586, 30816]

Fees and Changes for Special Services

ACTION: Civil Aeronautics Board.

AGENCY: Final rule.

SUMMARY: The CAB is amending its fee schedule for performing services that benefit individual recipients. The revised schedule takes into account the changes in costs and performance of functions since the last revision. The rule eliminates license fees. It further sets up a mechanism by which those who paid for services since 1977 can obtain a refund of amounts paid that exceeded costs.

DATES: Effective: January 10, 1983.

Adopted: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: For financial information, Joseph L. Kull, Office of Comptroller, 202-673-5476; for legal information: Joseph A. Brooks, Office of the General Counsel, 202-673-5442, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking (ODR-25, 47 FR 7746, February 23, 1982), the Board proposed to revise its schedule of filing fees. The revision included eliminating the license fees charged for certificate proceedings, which have been suspended since 1977. It further included an updating of the filing fees schedule to take into account the changes in statutes and in Board policies and procedures since deregulation, the Board's increased costs, and a change in methodology for computing the fees.

The Board in this final rule has decided to adopt the revised schedule with certain modifications suggested by the commenters. The rule includes a provision for applying for refunds of fees paid since 1977 that exceeded the Board's cost. License fees are eliminated. The Board is denying refunds for those fees paid between 1967 and 1977 on two grounds: (1) The unreasonable delay by the carriers in seeking these refunds would be prejudicial to the government, and (2) the fees paid did not exceed the Board's costs at that time.

Comments in this rulemaking were filed by: the Air Transport Association (on behalf of Air California, Alaska Airlines, Braniff International, Continental Air Lines, Capital Airlines, Delta Air Lines, Eastern Air Lines, Evergreen International Airlines, Frontier Airlines, Hawaiian Airlines, Northwest Airlines, Ozark Air Lines, Piedmont Airlines, Republic Airlines, Texas International, Trans World Airlines, USAir, United Air Lines, and Western Air Lines), Air Midwest, Aspen Airways, Canadian Transport Commission, Cascade Airways, Evergreen International Airlines, Kodiak Western Alaska Airlines, Republic Airlines, Transamerica Airlines, and World Airways.

The comments in general challenged the Board's methodology under the various applicable court decisions, and its decision to deny refunds of fees paid between 1967 and the present. Some parts of those comments were well taken and changes have been made in the methodology and calculation of the fees. The Board has also excluded the costs of hearings in recalculating the past and existing fees. The issue of refunds of amounts paid above costs is fully discussed below.

Fee Development Guidelines

In ODR-25, the Board set forth the sources for the guidelines used to develop its fees. Those sources were the Independent Offices Appropriations Act of 1952 (IOAA) (31 U.S.C. 483a), the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*) (the Act), and the decisions of the U.S. Supreme Court and the U.S. Courts of Appeals interpreting the IOAA. The latest Court of Appeals decision is that in 1979, when the revised fee schedule of the Nuclear Regulatory Commission was upheld by the U.S. Court of Appeals for the Fifth Circuit, based in large part on the earlier court decisions. *Mississippi Power & Light Co.* v. *NRC,* 601 F.2d 233 (5th Cir. 1979).

In summary, the guidelines set by the courts are:

1. There must be a nexus, "a threshold level of private benefit, between the regulatee and the agency before a fee can be assessed." The private recipient must be identifiable, not obscure. The service must not primarily benefit the public as a whole.

2. The cost basis of the fee must be only those expenses that the agency incurs in order to confer value on the payor. It cannot exceed the cost of the service rendered and must only reflect those expenses that are necessary to service the applicant. The agency "is not

prohibited from charging an applicant * * * the full cost of services rendered to an applicant which also result in some incidental public benefit." The agency "is entitled to charge for services which assist a person in complying with * * * statutory duties." Although such a filing required by statute may result in a public benefit, "that result is only an incidental benefit from the *service* which is rendered by the agency, *i.e.*, assisting the carriers in complying with the statute."

Electronic Industries Association v. *FCC*, 554 F.2d 1109 (D.C. Cir. 1976).

A number of specific requirements have been set by the Court to implement the value-to-the-recipient standard:

1. The agency must justify the assessment of a fee by a clear statement of the particular service or benefit for which it expects to be reimbursed.

2. The agency must calculate the cost basis for each fee, including:

a. An allocation of the specific expenses of the cost basis of the fee to the smallest practical unit.

b. The exclusion of expenses that serve an independent public interest.

c. A public explanation of the specific expenses included in the cost basis for a particular fee, and an explanation of the criteria used to include or exclude particular items.

3. The fee must be set to return the cost basis at a rate that reasonably reflects the cost of the service performed.

National Association of Broadcasters v. *FCC*, 544 F.2d 1118, 1133, (D.C. Cir. 1976).

The Board used these guidelines in developing its proposed fee schedule in ODR-25, and has, with the refinements suggested by the commenters, used them in adopting the fee schedule in this final rule.

Services Provided by the Board

In ODR-25, the Board described its organization and the various services that its staff components provide. It also stated which were primarily for a private benefit and which were not. Since that time, there have been several staff reorganizations along with some statutory changes that have occurred or are about to occur.

The major staff reorganization has involved the Bureaus of Domestic (BDA) and International Aviation (BIA). The Assistant Director, Fares, Rates & Tariffs, the Domestic Fares, Rates & Tariffs Division, and the Tariffs Division have shifted from BDA to BIA. Their functions remain unchanged.

BDA has been reorganized to eliminate the Associate Directors for Special Authorities and Administration and for Licensing Programs and Policy. The functions of those offices are now handled by the newly created Associate Director for Economic Affairs. The processing of agreements filed under section 412 of the Act is now done by the Competition Maintenance Division rather than the Special Authorities Division. Licensing matters are handled by the Special Authorities Division. The Competition Maintenance Division is under the Associate Director, Legal Affairs, and the Special Authorities Division is under the Associate Director, Economic Affairs.

The remaining descriptions of the Board's staff organization and their functions and services provided and their inclusion or exclusion in the cost basis for the fees remain the same as in ODR-25.

Because there will no longer be a statutory duty to file tariffs for interstate and overseas air transportation after January 1, 1983, the time for processing and the fee for tariff filings refer only to tariffs filed for foreign air transportation. The same principle applies to the fee for a tariff exemption for free and reduced-rate transportation and for tariff waivers and exemptions, such as special tariff permission.

The Air Transport Association of America (ATA) asked the Board to be more specific in its findings about the beneficiaries of the services for which fees were imposed. ATA and Republic mentioned several broad categories of services for which they thought the primary beneficiary was the public. Those categories included tariffs, charters, and notice filings.

In identifying whether a service is primarily performed for the benefit of the public, for a private person, or for an obscure beneficiary, the Board in preparing ODR-25 and in adopting this final rule looked to the IOAA itself, and to those court decisions interpreting it. The IOAA states that such categories as authority, use, franchise, license, permit, certificate, registration, or similar thing of value performed by the agency are among those matters that should be self-sustaining by means of collecting a fee. The Supreme Court quoted with approval a Budget Office Circular (No. A-25, issued on September 23, 1959) that specifically cited certificates for airline routes as requiring a fee, and set several guidelines for determining the beneficiary of a service. Within those references and the statutory duties imposed on U.S. and foreign air carriers by the Federal Aviation Act of 1958, as amended, the Board has looked at each of the services cited by ATA and Republic and at those services listed in the fee schedule to determine the primary beneficiary.

With respect to the filing of tariffs, the Board finds that the primary beneficiary is the airline filing the tariff, as it is required to do under the Act. The Court has specifically found that tariffs filed pursuant to a statutory duty, even though the statute was enacted in order to protect the public, primarily benefit the carrier. *Electronic Industries Association*, 554 F.2d at 1115. Tariff filings provide a means for a carrier to obtain revenues. The filing service assists the carriers in complying with their statutory duty (49 U.S.C. 1373). Neither the Airline Deregulation Act (Pub. L. 95-504) nor the International Air Transportation Competition Act (Pub. L. 96-192) changes this duty. The processing time listed for this fee is for ensuring technical compliance with the statute. It does not include investigation of the legality of the specific price or rule. Waivers and exemptions from tariff regulations and the filing duty fall within this finding. They are primarily to benefit the requesting carrier and are not generally given to all carriers.

Applications for certificates, permits, and other operating authority are also filed pursuant to a statutory duty (49 U.S.C. 1371, 1372). Again, even though there is an incidental or secondary public benefit to this service, this license granted by the Board provides the means for the carrier to operate, primarily benefiting that carrier. The service, like the acceptance of a tariff filing, helps the applicant to perform its statutory duty. The certificate or permit for direct carriers, especially in foreign air transportation, protects the operations of those carriers. The authority sought in such cases is a necessary and valuable license. Even in domestic transportation, the airline still must apply for a license to operate, and the Board must still find the carrier fit to operate. Further, the Court has found that regulatory licenses of the type issued by the Board are a service for which a fee may be charged. *National Cable Television Association* v. *FCC*, 554 F.2d 1094, 1101 (D.C. Cir. 1976). As with the tariff filing category, exemptions, amendments, and related activities, such as name changes, fall within this finding and are primarily for the benefit of the carrier applicant.

There are other types of authority to operate granted by the Board. Most of these authorizations, however, are derivative from sections 401 or 402. For example, air taxi operator, foreign air freight forwarder, tour operator, and other registration requirements are a substitute for section 401 or 402

proceedings. Also, charter operator prospectus filing is a condition to obtaining the exemptions from section 401, allowing such operations. Similar categories are Charter and Intermodal Statements of Authorization. The Board also issues Foreign Aircraft Permits and Special Authorizations (14 CFR Part 375) for commercial air operations using foreign aircraft not covered by section 402 of the Act. Another such type of authority is a Special Authorization (14 CFR Part 216) to foreign air carriers to carry blind sector traffic. As with certificates and permits, all of these operating authorizations are necessary and valuable, and in effect, are licenses required by statute. The Board finds that such authorizations primarily benefit the applicant, giving the applicant something not available to the general public or the industry at large—the authority to operate in air transportation or to conduct special operations—which is required by statute.

ATA in its comments makes reference to "notice-type filings." The Board is not sure what this refers to. The Board's fee schedule did include some notice filings among services requiring a fee. In reassessing those services (airport notice of authorization, notice of embargo, filing of schedules), the Board agrees that these are services that primarily benefit the public or where the beneficiary is obscure. The notices are required primarily to alert the public to a change that is taking place or to services that are being provided or discontinued. Although the individual carrier may benefit, that benefit is incidental to the public notice being provided. These are the reasons that no charge was assessed for the notices required by section 401(j) and 419 of the Act with respect to service terminations and the essential air services programs. Furthermore, several of these notices have been discontinued since ODR-25. Thus, "notice-type" filings have been excluded from the new fee schedule.

With respect to the category of fees under "Change of Name," the Board believes that authority to use a trade name and a request to reissue a certificate primarily benefit the applicant. Both of these categories are tied to the statutory requirement for a certificate under section 401 of the Act. The carrier must have a certificate to operate in air transportation (or be exempt from it) and must operate under the name listed in the certificate. If it wants to change its name, the certificate must be changed. The carrier may not operate under the new name without a change in the certificate or authority from the Board. This service does not primarily benefit the public, nor is the beneficiary obscure. A fee must therefore be charged for this service.

Exemption requests concerning tariff filing (section 403 of the Act) and certification (section 401) have been discussed above as primarily benefiting the applicant. Requests for exemptions from other sections, waivers of the Board's regulations, and relief granted to indirect air carriers also primarily benefit the applicants. Their nature is a grant of authority to do something that other carriers may not do. The public may often secondarily benefit from such exemptions, but only incidentally to benefit received by the applicant. These services thus warrant a fee being assessed and have been included in the fee schedule.

Service mail rate petitions are requests from the carriers for the Board to set a rate for them to carry mail for the U.S. Postal Service. Without such a rate, the carrier may not provide this service. It is a means by which the carrier obtains an often guaranteed source of revenue, clearly benefiting that carrier. As with certificates, it is a necessary and valuable authorization. A fee has thus been charged for this service.

In ODR-25 the filing of agreements under section 412 of the Act is split between two categories, IATA resolutions (pertaining to international prices and rules) and Agreements (general). Carriers may file agreements with the Board for approval and for the grant of antitrust immunity. These agreements are not required to be filed. They are filed for the benefit of the parties to the agreement who seek to avoid any possible enforcement action under the antitrust laws. These agreements may have secondary public benefits, but such benefits do not overcome the primary benefits to the applicants. A fee is thus charged for these services.

Applications for approval of mergers and acquisitions of control under section 408 and of interlocking relationships under section 409 are services for which fee must be charged. They primarily benefit the parties to the application. It enables them to complete the transaction, the purpose of which normally is better management and increased efficiency to increase revenues.

Development and Calculation of Fees

In ODR-25, the Board explained the specific development and calculation of the fees. In general that explanation is the same for the fees adopted in this final rule. Both ATA and Republic criticized the method used by the Board in the fee calculations in ODR-25. Some of those criticisms were well taken and have been adopted; others were not, as explained below.

The Courts have stated that the fees charged for eligible services must be fair and equitable. Contrary to what ATA and Republic appeared to imply in their comments, the calculation need not be exact. The fee should be "a reasonable approximation of the attributable costs" that are "expended to benefit the recipient." *National Cable Television Association*, 554 F.2d at 1107. This the Board has done. The fee represents only the time used to process the document for those services that primarily benefit the recipient.

The supporting documents are being placed in the docket, so that it will be clear how the Board calculated its fees. The following explanation is in addition to that given in ODR-25.

When the basic document or application (the smallest practical unit) for a chargeable service is filed at the Board, the time and cost for its processing begins. It ends when the decision on the document is issued. Thus, each service includes initial docketing of the item, analysis of its content, recommendation to the decisionmaker (normally the Board Members), and issuance of the decision. Only part of that process primarily benefits the applicant. As explained in ODR-25, the Board has excluded from the cost basis of the fees the time and costs that primarily benefit the public, or whose beneficiary is obscure. For all work items listed in the fee schedule, the initial docketing of the item and analysis of it primarily benefit the applicant. The recommendations to the Board by supervisory personnel and the principal advisors to the Board Members, the Members' support staff, and the Members' operations are excluded, as explained in ODR-25.

The initial docketing and analysis of an item include review of the document to make sure that it complies with statutory standards and Board rules. An analysis is made of the arguments and facts presented by the applicant in relation to the Act and to Board precedent. The document with the draft analysis is then sent to supervisory personnel and the Board's advisors for review. At this point in its processing the beneficiary becomes obscure. For example, in a certificate/fitness case, after the item is docketed and the analysis is performed and drafted, the Board's principal advisors and the supervisor of the bureau receiving the document transmit the staff recommendation to the Board as to

whether the matter should be handled by an evidentiary hearing or by show-cause procedures. The time and costs expended until that recommendation is made and sent primarily confers value on the recipient. Beyond that point, the processing times and costs are not included in the fees.

In order to ensure that the processing times stated in ODR–25 were accurate and to take into account the criticisms of some of the proposed times by the commenters, each concerned Bureau and Office reviewed them, using the standards explained above. Their conclusions were contained in memos by the offices handling each item and have been placed in the docket. The Board believes that this study of the processing times complies with the Court guidelines.

Special criticism of processing times and structure of the fee categories were made by ATA and Transamerica. ATA argued that the processing time (.17 staff-hours) for tariff pages was overstated. ATA contended that the Airline Deregulation Act and the Board's tariff policies (*i.e.*, ER–1246) have removed most of the legal justification for in-depth review of airline tariffs. Further, the Board's stated processing time, ATA argued, would amount to 15 employees spending 100 percent of their time processing tariff pages. ATA is correct that the Deregulation Act and ER–1246 (Maximum Tariffs) have reduced the need for close review of as many tariffs as in the past, but only for domestic transportation. The processing time reflects that change. ATA, however, ignores the fact that tariffs for foreign air transportation must still be filed. Although the International Air Transportation Competition Act set up a similar no-suspend zone for certain passenger fares, as in domestic transportation, it did not do so for international cargo rates or for rules tariffs. ATA's projection of 15 employees spending 100 percent of their time on tariff review happens to be accurate. As of November 8, 1982, the Board had 15 nonsupervisory employees in its Tariff Division doing precisely that. This indicates that even using ATA's assumption, the Board's listed processing time is accurate. Because of the improved procedures of the staff in processing tariffs, the processing time for tariff pages has decreased. It has now been set at .1 staff-hour for each page.

ATA also argued that the fee for agreements filed at the Board for approval should be divided between those filed for prior approval and more routine filings, as it is in the existing schedule. ATA used the example of IATA Resolutions that are filed for approval. ATA stated that ODR–25 lists the processing time for that item as 2.5 staff-hours, while the processing time for other agreements (both prior-approval and others), which are often identical if not filed for prior approval, requires 15 staff-hours. ATA contended that the agreements not filed for prior approval should take less time to process than those that are so filed, whose times should be similar to those for IATA resolutions.

The Board agrees with ATA that there should be separate fees for the two types of agreements. The first type of agreement, similar to the IATA Conference Resolution, is processed at the Board as a nondocketed item. These agreements are generally routine in nature. The carriers filing them are not seeking prior approval of them. The staff processing time for such agreements averages 2.5 staff-hours, the same amount of time required to process IATA Conference Resolutions.

The second type of agreement, commonly referred to as prior-approval agreements, are often much more complicated in nature. They require more thorough initial analysis for anti-competitive effects, and to determine whether antitrust immunity is advisable. These agreements are always docketed when filed. The staff processing time for such agreements averages 40 staff-hours.

This breakdown of the agreements category into two parts eliminates the category for general agreements requiring 15 staff-hours as proposed in ODR–25. That figure included an average processing time for both the more numerous routine, nondocketed agreements and these docketed agreements for which the carriers ask for prior approval and antitrust immunity.

Transamerica argued that the Board's fee schedule for certificates for foreign air transportation should be changed, since certain applications, amendments to certificates and conforming applications, do not normally involve fitness determinations or require less information to be submitted in the application. The processing time for those types of applications, Transamerica contends, should be less than for an initial certificate application. First, Transamerica asked that the Board clarify whether the fee for an amendment to a certificate or for an initial certificate would be charged in the case of a carrier that receives new route authority in the form of a temporary experimental certificate without a fitness finding. The answer is that the category for certificate amendments has been eliminated, so that the fee charged in Transamerica's example would be for an initial certificate. Furthermore, hearing costs associated with fitness are not included in the fees, as explained above.

Second, Transamerica argued that conforming applications should not require the same amount of processing time as initial applications for certificates for foreign air transportation. We disagree. Although some data may not be required, it does not significantly alter the amount of time required to process the application. There is thus no need to split this category further.

Because of statutory and regulatory policy changes, several other revisions in the processing times have been made since the issuance of ODR–25. In the processing of commuter registrations, which require fitness determinations and therefore the submission of fitness data, the listed processing time has been increased from 10 to 24 staff-hours. This change is the result of more detail and data on the safety and financial position required of applicants, thus increasing the work of the analysts at the Board. When the initial determination of the processing time was made, it was based on the Board's experience with the applications of larger, more established carriers. Now, the applications are mostly for smaller or new carriers, requiring more staff work in helping the applicant to complete the application. Approximately 75 percent of the applications are deferred for more information from the applicant.

The listed processing time for Overseas Military Personnel Charter Operating Authorizations has been increased from 8 to 24 staff-hours. OMPC authorizations are similar to charter certificates in the processing required. They are operating authorizations, requiring financial and other data, unlike charter prospectuses for other types of charters. When the processing time listed in ODR–25 was calculated, the Board had little recent experience with these authorizations. Recently, the Board has processed two OMPC Authorizations. The processing time for each was approximately 24 staff-hours.

Another change in listed processing times is for the approval of mergers and acquisitions. In ODR–25, the processing time was listed as 15 staff-hours. The Board's more recent experience is that the cases coming before it now for approval are increasingly complex. They require in-depth analysis of both the

competitive effects and the application of the Clayton Act, thus requiring more data from the applicant and from respondents. The average initial processing time for these applications is now 40 staff-hours.

Two other listed processing times have also been increased. In ODR–25, the time for processing exemptions from section 419 of the Act was listed as 0.5 staff-hours. That time, however, only represented the processing of exemptions from the 90-day notice itself. Other exemption requests concerning section 419 are much more involved. They are usually for a deviation from the service pattern established by the Board for essential air service to a community. Such an application raises complex issues involving communities' needs as well as the subsidy to be paid. The average time for processing section 419 exemption requests is 5 staff-hours.

An application for change in name that involves use of a trade name was listed in ODR–25 as taking 5 hours. Since the period when those times were set, the nature of these applications has changed. They now are more likely to involve new carriers asking for names that are often closely related to the names of established carriers, thus resulting in objections from those carriers. These applications and objections to them are requiring more staff time to process, since more complicated issues are involved. The processing of objections has not been included. It is, however, the issues that are raised by those objections that increase the overall time. The time for processing these applications has thus been set at 10 staff-hours where no change in the carrier's certificate is involved and 1.75 staff-hours where the certificate is being reissued. The discrepancy is caused by the differences in the offices that handle these two types of name change proceedings. In order to prevent the filing fees from affecting a carrier decision whether to ask for a new certificate, the Board is combining the two categories, using the average costs and charges of the two offices in setting the fee.

The Board has found in its review that the listed processing times for applications for domestic certificates in ODR–25 did not include the time for the legal review. The Board has thus added 4 hours to the times for processing charter and scheduled service applications, making each 30 staff-hours. For all-cargo certificates issued under section 418, the Board has increased the processing time listed from 10 to 24 staff-hours. The reasons for this increase are the same as discussed above for the increase in commuter registration processing times. Because of policy changes, the Board is reviewing more closely the safety and financial data submitted by the applicants. Further, the applications now being received are from new carriers rather than from already established ones, thus requiring more staff work with the applicant to ensure that the application is complete.

Several categories in domestic transportation have had their processing times reduced or have been eliminated. The time for processing exemption requests from section 401 and from the Board's charter regulations has been reduced. This decrease is the result of improved processing procedures by the staff and in the case of section 401 exemptions, a change in character of the applications. No longer do they involve route and specific point and service matters, but rather more simple matters involving routine requests.

Because of statutory changes involving the Board's domestic route authority, the category for amendment of certificates and for applications for certificate restriction removals have been eliminated. These items are no longer filed with the Board. Also, the category for general waiver of regulations has been eliminated. Upon review it was found that this category duplicated specific categories elsewhere.

There are three changes in the listed processing times for items involving foreign air transportation. For foreign aircraft permits issued under Part 375, the processing time has increased from 0.75 to 1.5 staff-hours. The predominant type of permit sought is for industrial operations by Canadian aircraft. Stricter standards are now being applied to those permits because of the Canadian Government's persistent imposition of a first-refusal policy toward U.S. operators, which has been reasserted in recent negotiations. This has resulted in increased analyst time being spent on each application.

Two proposed processing times in foreign air transportation have been decreased. The time for processing exemption requests from section 403 with respect to tariff filing has been decreased from 4 to 2 staff-hours, and the time for processing filed tariff pages has been decreased from 0.17 to 0.1 staff-hour. Both of these reductions are the result of improved internal procedures at the Board.

Several changes have been made in the categories of fees in foreign air transportation. For certificates under section 401 of the Act, the category of amendment/restriction removal has been eliminated. Amending a certificate usually requires an amount of work roughly equal to that for a separate certificate. Further, the determination of whether to issue an amendment or a new certificate is usually not that of the applicant, but instead that of the Board. With respect to the restriction removal category, it is rarely requested except as part of applications for other changes in the certificate authority. Further, when they are separately requested, they can involve foreign policy considerations that make them no less time-consuming to process than other certificate requests.

Foreign air carrier permit renewals have now been grouped with amendments, since they, like certificate amendments, do not require such a time-consuming examination of fitness and ownership data as is required for initial applications. Also, section 401 and 402 exemption subheadings have been combined, since the processing times are the same. An exemption request that has the effect of extending a less-than-10-flight exemption to more than 10 flights will be charged the higher fee. Such a request requires the closer scrutiny and policy tests associated with the larger requests. To do otherwise would create an incentive for carriers to substitute several small applications for one large one, thereby increasing the Board's work.

Two new sub-categories of fees have been added to the fee categories in foreign air transportation. Amendments to applications for air carrier certificates and foreign air carrier permits that are initiated by the applicant or that are needed to complete the application will be charged a fee. The authority sought in these application amendments is generally to change the scope or nature of the authority sought or to supply or correct information needed to process the application. These items are primarily for the benefit of the applicant. They are an integral part of the license process, which has already been found to be a service for which a fee may be charged. Separate listings are made for amendments to certificate and permit applications.

The second sub-category is for requests for certain authority filed in less than the time required by the Board's rules. These requests are often by telephone and require additional staff processing time and analysis. They are normally asking for exemptions or for such undocketed matters as Foreign Aircraft Permits, Foreign air carrier charter statement of authorization, and other similar authority. These requests are merely another method of "filing"

such items. The beneficiary findings for those items discussed above thus continue to apply. The extra staff time required for these items is primarily to substitute for the lack of the customary written notice and opportunity to comment. The staff must therefore make telephone inquiries in order to complete, process, and analyze the applications. The average additional time required to process this type of application is 0.5 staff-hours. The fee for this type of item is listed as an additional charge on top of that for the basic application.

For each item that is docketed, whether in domestic or foreign air transportation, a processing time of 0.3 staff-hours is added for the initial processing of the item. This process involves reviewing the document to see that it complies with Board regulations for filing, assigning the docket number to the document, and date-stamping it upon arrival.

One of ATA's primary criticisms was the method used in ODR-25 to calculate the fees. ATA made seven specific criticisms of the fee calculation: (1) Administrative costs should be defined, (2) travel costs should be excluded, (3) the formula for figuring the indirect costs should be clarified, (4) the pro-rata distribution of support staff costs should be explained, (5) indirect costs should be specified, (6) costs should be figured from the "bottom up," and (7) the costs of BCAA should be excluded, as stated in ODR-25. The Board carefully reviewed ATA's comments and has made adjustments in its calculation of its expenses to answer ATA's criticisms.

In this rule, the Board will briefly summarize the methodology used to calculate the rate applied to the processing times to arrive at the fee. Supporting documents for specific items are being placed in the docket.

Basically there are three cost components to the hour rate charged to the applicable service: (1) Direct labor, (2) indirect labor, and (3) indirect operating expenses. The direct labor costs are based on a specific hourly rate for the grade level of the staff working directly on a particular service. Those rates are based on the Fiscal Year 1982 salary rate of government employees. The rates in ODR-25 were based on FY 1980 rates. In some cases, where there is a range of grade levels working on a specific service, the rates have been averaged. The grade ranges were reported by the operating bureaus to the Comptroller and the General Counsel. The grade levels reported were for non-supervisory personnel now working on those services.

Indirect labor costs are those salaries and benefits incurred by the Board to provide general services to the staff. Such administrative or support services include personnel, purchasing, finance, budget, supply distribution, and mailroom services. The Board reviewed each organizational component to determine whether it provides program services or administrative-type services. Thus, included in the indirect labor costs are the salaries and benefits of OASO, OHR, and certain components of OC, OMD, and OGC who provide administrative services, as shown in the supporting documents. All other staff salaries were excluded from the indirect labor category.

Indirect operating expenses are those primarily incurred to support the staff, and are not directly related to specific program activities. Typical indirect expenses include office space, machine rentals, telephone charges, postage, repairs and alterations, and materials. Certain operating expenses, such as those incurred for ADP operations, are for support staff activities as well as for program support. The Board has thus allocated such expenses between program (direct) and staff (indirect) operating expenses in the calculation. All other expenses, such as for travel, the Federal Register, and special studies, as well as direct ADP expenses, were excluded.

Since indirect labor and indirect operating expenses are incurred for all staff activities, the Board has distributed those expenses on a per-capita basis. The distribution was based on actual hours worked by the entire staff during Fiscal Year 1982.

The supporting documents for this calculation are in the docket and more fully answer ATA's criticisms.

Foreign Air Carriers

In ODR-25, the Board stated that under the IOAA it had no discretion to exempt foreign air carriers from paying fees for services conferring value on them. Under the Federal Aviation Act, however, the Board must act in accordance with agreements between the United States and foreign countries. On that basis, the Board stated that it will not charge fees for foreign air carriers whose home countries do not charge U.S. air carriers for similar services. The Board has adopted that approach in the final rule.

The Canadian Transport Commission filed a letter in this docket stating that Canada does not charge fees to U.S. carriers for applications made to it. This rulemaking is not the place to decide requests on behalf of foreign air carriers for waivers under § 389.24. The Board is now considering the request of the Canadian Transport Commission.

The Board will decide on its own initiative or upon application of foreign air carriers or their government whether to waive fees for services for other foreign carriers. The decision will depend on the Board's determination whether all categories of U.S. carriers are not charged fees by the foreign government involved.

License Fees

In ODR-25, the Board proposed not to charge "license fees" to recover the cost of hearings for certificate applications, as had been done in the past. The Board has adopted that policy in its final rule for the reason stated in ODR-25. Nor are air carriers liable for any unbilled license fees calculated under the previous fee schedule after April 8, 1977, the date the license fee schedule was suspended by the Board. (Order 77-4-42). With respect to Republic's contention that all license fees should be refunded that were collected before that date, the Board does not believe that refunds are warranted, as explained below.

Refunds

The commenters disagreed strongly with the Board's tentative decision in ODR-25 to deny refunds for *all* fees paid since 1967. These commenters have misinterpreted the court decisions on this point. The court has stated that only that part of a fee that exceeds the cost basis of a specific service is to be refunded, not the entire fee. *National Association of Broadcasters*, 554 F.2d at 1133. The Board is, therefore, denying the request for a refund of all fees paid. Further, it is denying the request for refunds of any fees paid between 1967 and April 28, 1977, the date on which the first request was received for refunds, challenging the validity of the fee schedule. For those fees paid between 1977 and the present, the Board will consider refunds of amounts paid that exceed the recalculated cost of the service. A mechanism has been set up in the final rule for persons to apply for refunds.

Fees Paid Between 1967 and 1977

ATA in its comments set forth the regulatory history of the Board's fee schedule. In summary: the Board first proposed filing fees in a notice of proposed rulemaking in 1967 (ODR-3, 31 FR 9841, July 6, 1967). ATA and other carriers commented in response to that notice, stating their objection to any fees being imposed and to the Board's methodology in calculating them. The Board responded to those comments, restating its legal authority to do so, and

issued a final rule establishing a fee schedule (OR–27, 33 FR 68, January 4, 1968). No petition for change in the rule was filed with the Board and no appeal was filed with the U.S. Court of Appeals as provided in section 1006 of the Act.

In 1973, the Board, after issuing a notice of proposed rulemaking revised its filing fee schedule (OR–80, 38 FR 31960, November 20, 1973). Again, no petitions for a rule change were filed with the Board and no appeals were filed with the Court of Appeals challenging the legality of the fees or asking for refunds.

Thus, at no time between 1967 and 1977 did the carriers ask for refunds or did the Board state that it was retaining its records to facilitate refunds or reviewing the legality of its fees. Nor have the funds collected during this period been kept in any type of suspense account awaiting review of the fee schedule.

In view of this background, the Board believes that the refund claims for this period must be denied on the legal ground of laches. In *National Association of Broadcasters* v. *FCC*, the Court cited two requirements for assertion of the defense of laches: (1) There must be unreasonable delay on the part of the person seeking a legal remedy, and (2) there must be prejudice to the person against whom the remedy is sought by allowing it at this late date. 554 F. 2d at 1128. In the case of fees paid between 1967 and 1977, a period of 10 years elapsed during which the carriers did not ask for a refund or contest the Board rules in the courts. Nor did the Board state during that period that it was reviewing its fee schedule in this regard. Refunds should not be made for fees collected and calculated over 15 years ago. Recalculations of those fees would necessarily be based on records of that time, which may or may not be complete for that purpose for all fee categories.

In determining whether the Supreme Court decisions on the IOAA (cited in ODR–25) should be made retroactive, the Court of Appeals in the *NAB* case looked to see whether there had been reliance on the old rule before that decision and whether there would be unfair surprise to apply it retroactively. The Board, like the carriers, certainly relied on the previous interpretation of the IOAA until the petitions in those dockets were filed in 1977, 2 years after the Supreme Court decision. There was never any statement by the Board that these fees were being contested or that the Board would review the fee schedules for other than technical corrections. It would now be impractical to refund those fees 15 years after they were established, when they were not contested during that period.

The Board has, however, attempted to recalculate the fees between 1967 and 1977, using the methodology explained above. The fees were recalculated based on 1967 costs for those fees assessed from 1967 through 1972, and on 1973 costs for fees between 1973 and 1977. This recalculation follows the Board's pattern of imposing fees in 1967 and then revising them in 1973 . Supporting documents have been placed in the docket.

When the Board calculated its fees in 1967 and in 1973 they were based on the staff-years, rather than staff-hours, needed to provide a particular service. The files of that time, which are 15 years old, do not, therefore, contain processing times in terms of staff-hours. The Board has, however, used the staff-year figures to give an approximate staff-hour time based on the total staff-hours that are included in 1 staff-year worked at the Board in 1967 and 1973. Those times have then been multiplied by the staff-hour rate (including both direct and indirect costs) for that year.

As explained in ODR–25, the Board based its 1967 and 1973 fees on 25 percent of the costs of providing the service. A re-calculation of the fees for that time, based on 15-year-old files, shows that even if refunds were legally permitted, some of the license and filing fees collected then were substantially less than the costs incurred. The discrepancies caused by using what turned out to be an incorrect billing method thus were undercharges, not overcharges. A complete breakdown of the old and recalculated fees is set forth in the docket.

Fees Paid Between 1977 and the Present

In 1977, the carriers and the Department of Justice questioned the validity of the Board's fee schedules under the law. The carriers asked for refunds of all fees paid since 1967. The Board stated in Order 77–4–42 that it would suspend the collection of the license fees while it reviewed its entire fee schedule, but that its filing fees would not be refunded during the review.

In recalculating the fees assessed between 1977 and the present, the Board faced the same problem as above in determining what processing times for those fees should be used. In order to take the most conservative approach, the Board used the times reported for processing those items today. The year 1977 was only 1 year before the Airline Deregulation Act took effect. Since the Deregulation Act, with its emphasis on expedited procedures and zones of reasonableness for domestic passenger prices, the Board's processing times for all work items have decreased. The times reported today in this rule are therefore shorter than they would have been in 1977. For that reason, the Board believes that those times provide a conservative retrospective approximation of the staff time needed to process those items for which fees were assessed over the last 5 years.

The Board has used the methodology explained above to recalculate the present fees. The cost figures used are based on 1977 amounts for direct and indirect costs. Since the fees assessed during that time have still been based on the old formula that only imposed 25 percent of the Board's costs, the fees that should have been charged are generally higher. The supporting documents showing the calculation and the recalculated fees for each item are in the docket.

Several arguments were raised by Republic questioning certain aspects of fees paid since 1977. In general, Republic's arguments were similar to ATA's in regard to the prospective fees proposed in ODR–25. The Board has used the same methodology in recalculating the past fees as it did for the prospective fees. For information on the organization of the Board and the services the staff components performed during that period until issuance of ODR–25, the Board's organization regulations, for those years in 14 CFR Part 384 show the individual bureaus and offices and the services they provide. The same principles as discussed above were used to redetermine which of those services benefited primarily the individual applicant and therefore should be charged for. The findings made for the present apply also to the earlier period. For those services which have now been found not to primarily benefit the applicant, refund applications can be made to the Board under the procedure set up in this final rule.

Because of statutory and regulatory policy changes, several services for which fees have been charged were eliminated in the new fee schedule. In making findings as to the primary beneficiary for those items, the Board looked to the law and policy in effect at that time. One such category was "Change in service pattern, approved service plan or flight pattern." The Board in the past issued certificates for foreign air transportation to provide unspecified service to a foreign country, with the carrier submitting a service plan as to how the service was to be provided. In order to change that service

pattern, the carrier had to receive permission from the Board, which in effect constituted an amendment of its certificate. Without such permission that carrier was not allowed to provide service to a specific destination by the specific route that it preferred. This operating authority granted by the Board was part of a necessary and valuable license and was primarily for the benefit of the carrier.

A second category of service no longer performed by the Board is "Approval of delay in inauguration of or temporary suspension of service." Under sections 401 (f) and (j) prior to amendment by the Deregulation Act, carriers were required to perform the air transportation authorized in their certificates or be subject to proceedings to revoke the certificate. The carriers therefore had to obtain approval of the Board if the start of their service was to be delayed or if they wanted to stop service temporarily. Again, the approvals were in effect exemptions from the statutory requirements, a service for the special benefit of the applicant. Today, under present law, when carriers in foreign air transportation seek a delay in the date by which their certificate requires them to start service, they must ask for an exemption from section 401. The fee for that category covers such services. The fee will be that for an exemption from section 401 involving 10 or fewer flights.

Under section 404(a) of the Act, carriers in domestic transportation, unless exempted by the Board, had a duty to carry persons or cargo on reasonable request. The Board in 14 CFR Part 228 granted a general exemption to carriers to embargo certain types of cargo on a temporary basis for up to 30 days on the condition that the carrier file a public notice with the Board to alert the shipping public. Beyond that initial 30 days, carriers were required to file an application for Board approval to extend the embargo. Although the public notice required during the initial 30 days primarily benefits the public, the application to extend the embargo is a special exemption primarily to benefit that carrier. It is not available to the general industry. While it is a service that secondarily benefits the public, the primary beneficiary is the applicant, thus entitling the Board to charge a fee for the service of processing that application.

The Board's fee schedule since 1973 has also included fees for certain motions and for waivers from the fee schedule. The motions for which fees have been charged are for leave to file an otherwise unauthorized document and for expedited action. These motions required processing of documents not normally part of a proceeding. They were for action beyond that given the general parties to the proceeding and primarily for the benefit of the filing party. Requests for waivers of fees were also primarily for the benefit of the applicant, given that person a benefit not given generally to the public.

Refund Procedure

In the rule adopted today, the Board, as asked by the commenters, is establishing a mechanism by which those who paid fees that exceeded costs, as recalculated, for that service can apply for refunds. Applications are to be filed with the Board's Comptroller. The application is to state the specific fee for which a refund is asked, the amount paid, and the total amount paid by the carrier in that calendar year for all fees. The Comptroller, under authority delegated by the Board, will review the application, offsetting any amounts overpaid by amounts underpaid during the calendar year of the payment in question, based on the recalculation of the fees as discussed above. If an amount is due to the applicant, the Comptroller will order the payment to be made. The Comptroller will state in detail the reasons for approval or disapproval of the request and any calculations used to make the decisions. Decisions under delegated authority may, of course, be appealed to the Board.

Miscellaneous

All documents and calculations used in preparing this rule have been placed in the docket for review.

So that no person will be disadvantaged or treated discriminatorily, and so that accurate fees can be paid, the Board finds for good cause that this rule should be effective on January 10, 1983.

The motion by ATA for expedited action in the proceeding is denied as moot.

Final Regulatory Flexibility Analysis

The discussion above constitutes the Board's final regulatory flexibility analysis of this rule pursuant to the Regulatory Flexibility Act (5 U.S.C. 604). Copies of this document can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673-5432, by referring to the "OR" number at the top of the document.

List of Subjects in 14 CFR Part 389

Archives and Records.

PART 389—[AMENDED]

Accordingly, the civil Aeronautics Board amends 14 CFR Part 389, *Fees and Charges for Special Services,* as follows:

1. The authority for Part 398 is:

Authority: Secs. 204, 1002, Pub. L. 85-726, as amended, 72 Stat. 743, 797; 49 U.S.C. 1324, 1502. Act of August 31, 1951, ch. 376, 65 Stat. 268; 31 U.S.C. 483a.

2. Subpart C is re-titled to read:

Subpart C—Filing and Processing Fees

3. Section 389.20 is revised to read:

§ 389.20 Applicability of subpart.

This subpart applies to the filing of certain documents at the Board by nongovernment parties, and prescribes fees for their processing.

4. Section 389.21 is amended by removing and reserving paragraph (b) and by revising paragraph (e) to read:

§ 389.21 Payment of fees.

* * * * *

(b) [Reserved]

* * * * *

(e) No fee shall be returned after the document has been filed with the Board, except as provided in §§ 389.23 and 389.27.

5. Section 389.23 is revised to read:

§ 389.23 Application for waiver or modification of fees.

(a) Applications may be filed asking for waiver or modification of any fee paid under this subpart. Each applicant shall set forth the reasons why a waiver or modification should be granted, and by what legal authority.

(b) Applications asking for a waiver or modification of fees shall be sent to the Managing Director of the Board, and shall accompany the document filed. Applicants may appeal the decision of the Managing Director to the Board under § 385.50 of this chapter. When no petition for review is filed with the Board, or when the Board reviews the Managing Director's decision, if the amount found due is not paid within 10 days after receipt of notification of the final determination, the document shall be returned to the filing party.

6. Section 389.24 is revised to read:

§ 389.24 Foreign air carriers.

A foreign air carrier, or such carriers, if from the same country, acting jointly, may apply for a waiver of the requirements of this part based on reciprocity for U.S. air carriers contained in the requirements of their home governments, or as provided in a treaty or agreement with the United States. To apply for a waiver under this

section, foreign air carriers shall follow the procedures in § 389.23. A copy of the waiver request shall be sent to the Director, Bureau of International Aviation. The request should include applicable official government rules, decisions, statements of policy, or comparable evidence concerning filing fees for U.S. air carriers, or for all carriers serving that country. Once a waiver has been granted for a specific country, no further waiver applications need be filed for that country.

7. Section 389.25 is revised to read:

§ 389.25 Schedule of processing fees.

Code	Document	
	Interstate and Overseas Air Transportation	
	Certificate of Public Convenience and Necessity:	
	Application under sec. 401:	
1	Charter	850
2	Scheduled Service	850
3	Dormant Authority	290
4	All-Cargo under sec. 418	670
5	Transfer	290
6	Air Taxi Registration	12
7	Scheduled Passenger Commuter Registration	670
8	Change of Name (Use of Trade Name or reissuance of certificate)	165
9	Exemption Request (General):	
10	Section 403	53
11	Section 401 (domestic)	280
12	Section 419	120
13	Service Mail Rate Petition	420
	Foreign Air Transportation (U.S. and Foreign Air Carriers)	
	Certificate of Public Convenience and Necessity (Sec. 401):	
14	Scheduled Service	900
15	Amendment to application	425
16	Charter Service	600
17	Amendment to application	200
18	Transfer	255
19	Change of Name (Use of Trade Name or reissuance of certificate)	125
	Foreign Air Carrier Permit (Sec. 402):	
20	Initial	760
21	Amendment/Renewal of permit	475
22	Amendment to application for a permit	215
	Exemption:	
23	Section 403	53
	Section 401/402:	
24	10 or fewer flights	77
25	More than 10 flights	360
26	Filed less than 10 days before effective date requested	[1]17
27	Other (U.S. and foreign air carriers)	360
28	Emergency cabotage (sec. 416(b)(7))	360
29	Relief for U.S. (sec. 101) and foreign (sec. 416) indirect air carriers	370
	Undocketed Items:	
30	Canadian Charter Air Taxi Registration	30
31	Foreign Freight Forwarder Registration	11
32	Foreign Tour Operator Registration	10
33	Foreign Aircraft Permit (Part 375)	25
34	Special Authorization (Part 375)	12
35	Charter Statement of Authorization	8
36	Intermodal Statement of Authorization	10
37	Special Authority (Part 216)	37
38	Items 33–37 if filed less than time required before effective date	[1]11
39	IATA resolutions	61
	Other (U.S. and foreign air carriers)	
	Charters:	
40	Public Charter Prospectus	39
41	OMPC Operation Authorization	665
42	Waiver of Charter Regulations	39
	Tariffs:	
43	Pages	2
44	Special Tariff Permission	12
45	Waiver of Tariff Regulations	12
46	Approval of Interlocking Relationships	415
47	Merger or Acquisition of Control	1080
	Agreements filed under section 412:	
48	Prior Approval (docketed)	1080
49	Routine (nondocketed)	64
50	Application for free and reduced-rate transportation	16

[1] Additional

8. A new § 389.26 is added to read:

§ 389.26 Special rules for tariff page filings.

(a) Tariffs issued by carriers. The filing fee for tariff pages filed by U.S. air carriers will be charged even if the tariff includes matters involving participating foreign air carriers. It will also be charged if the tariff is issued by a foreign air carrier and includes matters involving participating U.S. air carriers, unless the foreign air carrier has obtained a waiver under § 389.24. The fee will not be charged for a blank looseleaf page unless it cancels matter in the preceding issue of the page.

(b) Tariffs issued by publishing agents.

(1) If the tariff is issued for one or more air carriers exclusively, the fee will be charged for each page.

(2) If the tariff is issued for one or more air carriers and one or more foreign air carriers, the fee will be charged for each page, except for those pages that the issuing agent states contain only:

(i) Matters pertaining exclusively to foreign air carriers that have been granted a waiver, or

(ii) Changes in matters pertaining to foreign air carriers that have been granted a waiver and that are included on the same page with other matters that are reissued without change.

(3) The fee will not be charged for a blank looseleaf page unless it cancels matters in the preceding page.

(4) No fee will be charged when two pages are published back-to-back, one page is not subject to the fee under paragraph (b)(2), and the page on the reverse is issued without substantive change.

(5) The fee will be charged for two looseleaf pages containing a correction number check sheet unless all other pages of the tariff are exempt from the fee.

9. A new § 389.27 is added to read:

§ 389.27 Refund of fee.

(a) Any fee charged under this part may be refunded in full or in part upon request if the document for which it is charged is withdrawn before final action is taken. Such requests shall be filed in accordance with § 389.23.

(b) Any person may file an application for refund of a fee paid since April 28, 1977, on the grounds that such fee exceeded the Board's cost in providing the service. The application shall be filed with the Comptroller, and shall contain: the amount paid, the date paid, the category of service, and the total amount of fees paid by the applicant in that year regardless of category. The Board will, for the calendar year of the payment in question, offset the amount claimed by the amount owed in total fees and refund any amount overpaid, explaining its calculations.

10. The Table of Contents for Subpart C is revised to read:

Table of Contents

* * * * *

Subpart C—Filing and Processing Fees

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-228 Filed 1-5-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 373

[Docket No. 21115-227]

Special Licensing Procedures; Change of Information Required on Form ITA-622P, and Correction of Cross-Reference

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

ACTION: Final rule.

SUMMARY: This rule amends Part 373 of the Export Administration Regulations by changing the instructions to exporters on completing Form ITA-622P when submitting that Form in order to export spare and replacement parts for servicing U.S. equipment under the Service Supply licensing procedure. The instructions required exporters to list the names of all ultimate consignees in each country in addition to a list of the proposed countries of ultimate destination. However, many exporters have so many ultimate consignees that a complete list is impractical.

This rule amends the instructions to require exporters to submit only the list of the proposed countries of ultimate destination.

This rule also corrects a cross-reference in Part 373 regarding extension and amendments of Project Licenses.

DATE: This rule is effective January 6, 1983. Although there is no formal comment period, public comments are welcome on a continuing basis.

ADDRESS: Written comments (six copies) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

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

Rulemaking Requirements

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

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

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

List of Subjects in 15 CFR Part 373

Exports.

PART 373—[AMENDED]

Accordingly, the Export Administration Regulations (15 CFR Part 373) are amended as follows:

§373.2 [Amended]

1. Paragraph (e)(2)(iv) of §373.2 is amended by revising the reference to "(c)(2)(ii)" to read "(c)(2)(iii)".

2. Paragraph (d)(1)(iv)(*b*)(*3*) of §373.7 is revised to read as follows:

§373.7 Service supply (SL) procedure.

* * * * *

(d) Types of Service Supply Authorizations. * * *

(1) * * *

(iv) * * *

(*b*) * * *

(*3*) Attach a list in duplicate of the proposed countries of ultimate destination, in alphabetical order.

* * * * *

(Sec. 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980))

Dated: November 10, 1982.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 83-380 Filed 1-5-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271 and 276

[Docket No. RM82-36-000 Order No. 272]

Elimination of Reporting Requirements for Sales of Natural Gas Under Sections 105, 106(b) and 109 of the Natural Gas Policy Act of 1978

Issued: December 29, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is eliminating Part 276 of its regulations to reduce unnecessary paperwork burdens. Part 276 requires first sellers of natural gas under NGPA sections 105, 106(b), and 109 to file initial and annual reports using Form Nos. 122, 123 and 124, and to maintain appropriate records, books, and contracts. The elements of Part 276 being eliminated by the rule are the initial and annual reporting requirements, including Form Nos. 122, 123, and 124. The record retention requirements are being transferred to the appropriate sections of Part 271.

EFFECTIVE DATE: This final rule will be effective February 7, 1983.

FOR FURTHER INFORMATION CONTACT: Brooks Carter, Federal Energy Regulatory Commission, Office of General Counsel, 825 North Capitol Street, N.E., Room 6410K, Washington, D.C. 20426, (202) 357–8811.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending its regulations by eliminating Part 276 and moving the record retention requirements of that Part to Part 271. Part 276 requires the filing of information concerning first sales of natural gas made under sections 105, 106(b), and 109 of the Natural Gas Policy Act of 1978 (NGPA) and prescribes FERC Form Nos. 122, 123, and 124 and affidavits. While eliminating these forms and the regulations requiring them, the Commission is keeping the requirement that sellers retain certain records, books, and contracts relating to sales of natural gas made under these sections of the NGPA. This final rule is part of the Commission's ongoing program to review its reporting requirements and reduce unnecessary paperwork burdens by eliminating collections of data that are not necessary to the performance of the Commission's regulatory responsibilities.

II. Background

Part 276 regulations created an initial and subsequent annual reporting obligation on first sellers of natural gas qualifying under sections 105, 106(b), and 109 of the NGPA.[1] To comply with this reporting obligation, first sellers were to use Form No. 123 for sales made under section 105 of the NGPA, Form No. 124 for sales made under section 106(b) of the NGPA, and Form No. 122 for sales made under section 109 of the NGPA. First sellers were required to report the dates and duration of contracts, volumes and price of gas sold, and the identity of the contracting parties.[2]

In the case of all three forms, annual reports were due by April 1 to cover sales made during the previous calendar year. These regulations also required affidavits to accompany the forms and permitted the filing of affidavits in lieu of the form in certain cases. In addition, § 276.108 of these regulations required persons who filed reports to retain

[1] *See* Docket No. RM79-30, 44 FR 18647 (March 29, 1979) for final regulations effective March 23, 1982. Final regulations extended the filing deadlines for the initial report to June 1, 1979. Prior to that order, interim regulations under Part 276 had been issued on December 1, 1978, 43 FR 56448 (December 1, 1978), and amended on February 2, 1979, to extend the filing deadline for initial reports under the Part 276 Interim Regulations from March 1, 1979 to May 1, 1979 (Docket No. RM79-3, 44 FR 18007 (March 26, 1979)).

[2] *See*, 18 CFR 276.103(a) (1982).

relevant records and books for three years after the filing date for the reporting period and to retain contracts for three years after the date they expired.

The Commission established these first sale reporting requirements to monitor NGPA sales and conduct compliance audits. A seller of natural gas under NGPA sections 105, 106(b), and 109 is not required to obtain a state or federal eligibility determination under section 503 of the NGPA prior to charging and collecting the prices authorized by those sections.[3] Accordingly, the reporting forms of Part 276 met the Commission's need for information concerning sales of natural gas which had not been regulated before the enactment of the NGPA.

The Commission extended the due date for filing of initial reports concerning the sale of natural gas under sections 105, 106(b) and 109 on two occasions and established June 1, 1979 as the filing deadline for initial reports for the period of December 1 through December 31, 1978.[4]

The Commission later suspended, until further notice, the reporting deadline for the annual reports to permit an evaluation of the regulatory need for them in light of the Commission's burden reduction program.[5] Following this evaluation, the Commission proposed to eliminate the reporting requirements of Part 276.[6] The notice pointed out that the Commission had concluded that the data reported on the forms is inadequate for determining if the price reported is in compliance with the NGPA without copies of the contracts and billing documents. The notice described that the Commission had considered the alternative of requiring the filing of such detailed contract information. The Commission, however, believed that this alternative would place unwarranted burdens on industry and Commission staff and that specific information requests and field audits would be adequate to monitor NGPA compliance.[7]

The Commission in that notice also proposed to keep the record and contract retention requirements but to locate then in appropriate pricing regulations of Part 271. This proposal provided that any person who collects a price under the pertinent NGPA sections would have to keep books and records related to each sale transaction for three years from the date of the sale and related contracts for three years after the date of their expiration. These provisions did not impose new record retention requirements or otherwise relieve any person from the obligation to retain relevant books, records, and contracts as required under current regulations. The three-year retention provision is consistent with general industry practice and does not impose additional burdens.[8]

By eliminating the reporting requirements of Part 276, the Commission believed that regulated entities would be relieved of the burden of filing approximately 5,000 annual oath statements and 300 annual reports containing approximately 25,000 lines of data. This elimination will reduce the total paperwork burden imposed by Part 276 on regulated entities by approximately ninety percent of the present burden. The remaining burden of ten percent would be attributable to continuing the record retention requirement.

III. Summary of Comments and Rule

The Commission received twelve comments concerning the proposals presented in the notice of proposed rulemaking. All commenters agreed with the Commission's proposals. First, all supported the Commission's exercising its NGPA compliance function concerning gas sold under sections 105, 106(b), and 109 by field audits, record and contract retention, and specific information requests. Second, all agreed with the Commission's notice that Form Nos. 122, 123, and 124 are burdensome and ineffective without the filing of detailed contract information with the Commission, a requirement which the Commission has rejected as imposing an even greater administrative burden. Accordingly, all commenters endorsed eliminating the forms and affidavits. Third, there was agreement that a record and contract retention provision, similar to that under Part 276, should be incorporated into Part 271.

As a result of these comments and the notice, the final rule is essentially the same as that noticed. It provides for the elimination of Part 276 and its annual reporting requirements. It also amends §§ 271.503, 271.603, and 271.903 to remove from these sections reference to the Part 276 filing requirement and to substitute a three-year record keeping requirement for those collecting first sale prices under sections 105, 106(b) and 109 of the NGPA.

The final rule differs from the notice in two minor respects, neither of which changes the substance of the proposal. The first change is in response to one commenter who sought clarification of the proposed requirement that books and records related to the sale be retained for three years from the "date of the sale." The commenter expressed uncertainty whether the Commission's intent was to require the retention of the relevant books and records from the date the sale began (when deliveries commenced or date of execution of the contract) or from a rolling period of three years from each individual day the sale existed. To remove any doubt about the intended meaning, the regulation has been amended to show that the Commission intends to require the retention of books and records for a rolling period of three years from the end of each billing period related to a particular sale. This rule would require the seller of natural gas to retain copies of billings and other business records customarily prepared for the sales transaction for the required period.

The second change is to the introductory language of proposed §§ 271.503, 271.603, and 271.903. This language has been changed to read "Any person who collects a price under this subpart for the first sale of natural gas * * *" This change is merely to conform the new regulation to the regulations in which they are inserted.

IV. Regulatory Flexibility Act Statement

The Regulatory Flexibility Act (RFA) requires the Commission to perform a

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[3] *See* 18 CFR 270.101(d)(2) (1982).

[4] The collection of the information submitted in the Part 276 reports on June 1, 1979 was a helpful initial step in the compliance process. The Commission will keep the reports initially filed to aid in determining which companies to audit. *See* note 1 for a discussion of the extensions granted.

Some sellers, however, may not have filed these initial reports as required by Part 276. Liability for such failure to file required reports will not be relieved by this rule eliminating the reporting requirements of Part 276. *Cf. United States v. Hark*, 320 U.S. 531, 536 (1944) (revocation of a regulation does not prevent indictment and conviction for violation of its provisions at a time when the regulation remained in force.); *United States v. Resnick*, 455 F. 2d 1127, 1134 (5th Cir. 1972) (revocation of a regulation before an indictment has been issued does not bar prosecution where the legislation authorizing the regulation has not been repealed); *see, generally*, NGPA section 504 dealing with enforcement and civil and criminal penalties for violating a rule of the Commission.

[5] Docket No. RM 79-30, 45 FR 19546 (March 26, 1980). While first sellers have been required to file initial reports, they have never been required to file annual reports with the Commission. The Commission suspended its reporting deadline for annual reports on March 14, 1980.

[6] Notice of Proposed Rulemaking, Elimination of Reporting Requirements for Sales of Natural Gas Under Sections 105, 106(b), and 109 of the Natural Gas Policy Act of 1978, Docket No. RM82-36, issued July 15, 1982, 47 FR 31582 (July 21, 1982).

[7] *Id.* at 31583, 47 FR (July 21, 1982).

[8] These recordkeeping requirements are, for the most part, the same or less than the requirements of the Internal Revenue Service. *See*, Records, Trees, Reg. § 1.6001-1 (1978) 26 CFR 1.6001-1 (1981).

regulatory flexibility analysis on proposed rules that will have "a significant economic impact on a substantial number of small entities." [9] The Commission is not required to make such an analysis if it certifies that the rule will not have "a significant economic impact on a substantial number of small entities."

The Commission's notice of proposed rulemaking in this docket made such a negative certification. This certification was based on a determination that the regulatory changes proposed in the notice would have a positive impact on small entities which are relieved of several first sale reporting requirements and that the elimination of Part 276 reporting requirements would result in an insignificant reduction in burden on an individual respondent basis. No adverse comments were filed with respect to the proposed negative certification.

Because this final rule is not significantly changed from that proposed, the Commission does not believe that this final rule will result in a significant economic impact on small entities. This final rule retains the requirement that relevant contracts, books, and records be kept for a three-year period. The rule, however, may change the starting point from which the record retention period begins from three years after the annual filing date of April 1 in the case of sales made during a previous calendar year to three years after the end of each billing period, which typically is a monthly period. As a result of this change, the period of record retention may be shortened thereby reducing the record retention burden. The Commission does not believe that these changes would constitute a significant economic impact. In view of these considerations and the absence of public comments on this issue, the Commission hereby certifies that the rule herein promulgated will not have a "significant economic impact on a substantial number of small entities."

V. Effective Date

In accordance with section 553 of the Administrative Procedure Act, this rule will be effective thirty days after publication in the **Federal Register**.

(Natural Gas Policy Act, 15 U.S.C. 3301–3432 (Supp. IV 1980))

List of Subjects

18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

18 CFR Part 276

Natural gas, Reporting requirements, Wage and price controls.

PART 271—[AMENDED]

In consideration of the foregoing, the Commission amends Parts 271 and 276, Title 18 of the Code of Federal Regulations, as set forth below.

By the Commission.

Lois D. Cashell,

Acting Secretary.

1. Part 271 of Subchapter H, Chapter I is amended in its Table of Contents and text by revising the title and text of §§ 271.503, 271.603, and 271.903, all to read as follows:

§ 271.503 Recordkeeping.

Any person who collects a price under this subpart for the first sale of natural gas shall keep:

(a) Any books and records related to the sale for three years from the end of each billing period; and

(b) Any contract related to the sale for three years after the expiration of the contract.

§ 271.603 Recordkeeping.

Any person who collects a price under this subpart for the first sale of natural gas shall keep:

(a) Any books and records related to the sale for three years from the end of each billing period; and

(b) Any contract related to the sale for three years after the expiration of the contract.

§ 271.903 Recordkeeping.

Any person who collects a price under this part for the first sale of natural gas shall keep:

(a) Any books and records related to the sale for three years from the end of each billing period;

(b) Any contract related to the sale for three years after the expiration of the contract.

PART 276—[RESERVED]

2. Subchapter H of Chapter I is amended in its Table of Contents and in its text by removing Part 276 in its entirety and reserving the same for future use.

[FR Doc. 83-376 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[9] 5 U.S.C. 603(a) (Supp. IV 1980).

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 42

[Dept. Reg. 108.829]

Spouse and Children of Certain Foreign Medical Graduates

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: A new § 42.28 is added to Part 42 to conform with amendments made to the Immigration and Nationality Act by the Act of December 29, 1981, Pub. L. 97–116. That law added a new paragraph (H) to section 101(a)(27) of the Act, which grants special immigrant status to certain classes of aliens in the United States and allows the issuance of visas abroad to the accompanying spouse and children of the new class of special immigrants.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Guida Evans-Magher, Consular Affairs Officer, Legislation and Regulations Division, Visa Services, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520, (202) 632–1900

SUPPLEMENTARY INFORMATION: The addition of paragraph (H) to section 101(a)(27) and the amendment of section 245(c)(2) of the Immigration and Nationality Act make it possible for certain foreign medical graduates or persons qualified to practice medicine in a foreign state to adjust status in the United States without regard to numerical limitations, labor certification requirements or the restrictions of section 245(c) relative to previous unauthorized employment. Their accompanying spouses and children in the United States would also be eligible for adjustment of status. In order to benefit from the provisions, however, the foreign medical graduates or persons qualified to practice medicine in a foreign state must have been fully and permanently licensed and practicing medicine in a State on January 9, 1978, and must have been continuously present in the United States in the practice or study of medicine since entering the United States before January 10, 1978 as temporary worker or exchange visitor nonimmigrants. The spouse and children of such special immigrants are also eligible to apply for visas as "accompanying" spouse and children of the special immigrant, as

that term is defined in this Part, upon establishing to the satisfaction of a consular officer, by appropriate evidence or confirmation of the Immigration and Naturalization Service, that the principal alien has been granted an adjustment of status by the Service to that of an alien lawfully admitted for permanent residence as a special immigrant under the provisions of section 101(a)(27) (H). Because this rule is necessary to implement changes made to the Immigration and Nationality Act by Pub. L. 97-116, compliance with the provisions of the Administrative Procedure Act (5 U.S.C. 553) as to notice of proposed rulemaking and delayed effective date is not practicable in this instance. Other conforming changes are made in the table of contents to Part 42.

List of Subjects in 22 CFR Part 42

Aliens, Special classes of immigrants.

PART 42—[AMENDED]

Therefore, Part 42 is amended by adding § 42.28 in the table of contents and immediately after § 42.27.

After § 42.27 add the following new undesignated center heading and section to read:

Spouse and Children of Certain Foreign Medical Graduates

§ 42.28 Accompanying spouse and children of certain foreign medical graduates.

The accompanying spouse and children of a graduate of a foreign medical school or of a person qualified to practice medicine in a foreign state, who has adjusted status as a special immigrant under the provisions of section 101 (a)(27)(H) of the Act, shall be classifiable as special immigrants under that section upon establishing to the satisfaction of a consular officer, by appropriate evidence or confirmation by the Immigration and Naturalization Service, that the principal alien has been granted such adjustment of status to that of an alien lawfully admitted for permanent residence.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104); 109(b)(1), 91 Stat. 847; 101 (a) (27), 95 Stat. 1614; 8 U.S.C. 1101 (a) (27))

Dated: December 10, 1982.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 83-258 Filed 1-5-83; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 6a

[T.D. 7866]

Temporary Income Tax Regulations Under Subtitle C of Title XI of the Omnibus Reconciliation Act of 1980; Penalties for Failure To Make a Return or Furnish a Statement Required Under Section 6039C

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to penalties for failure to make a return or furnish a statement required under section 6039C. Changes to the applicable tax law were made by the Foreign Investment in Real Property Tax Act of 1980. Temporary regulations setting the dates for filing returns required by section 6039C were published in the **Federal Register** on September 21, 1982, 47 FR 41532. Since penalties under section 6652(g) run from such date, it is necessary to have rules pertaining to penalties in place by these dates. Because of the need for immediate guidance in this regard, the Internal Revenue Service has found it to be impractical to issue these regulations with notice and public procedure under section 553(b) of title 5 of the United States Code. In addition, the text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the Proposed Rules section of this issue of the **Federal Register**.

DATES: The amendments are proposed to be effective for 1980 and subsequent calendar years. In applying the amendments to 1980, calendar year 1980 will be treated as beginning on June 19, 1980 and ending on December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Mary Elizabeth Dean of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations under section 6652(g) relating to penalties for failure to file information returns required by section 6039C. These temporary regulations provide rules under section 1123 of the Foreign Investment in Real Property Tax Act of 1980 (94 Stat. 2689) and 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).

Discussion; Statutory Provisions

Section 6039C requires that certain persons make returns or furnish statements relating to U.S. real property interests held by foreign persons. Section 6039C(a) requires domestic corporations that are U.S. real property holding corporations, as defined in section 897(c)(2), to make a return setting forth: (1) The name and address (if known by the corporation) of each shareholder known by the corporation to be a foreign person during the calendar year, (2) information with respect to transfers of stock to and from foreign persons during the calendar year, and (3) other information required by the Internal Revenue Service. If a nominee holds stock in a domestic corporation for a foreign person, and the foreign person does not furnish the information required by subsection (a), the nominee is required to make the return required under section 6039C(a).

Section 6039C(b) requires that if an entity (a foreign corporation or domestic or foreign partnership, trust, or estate) has a "substantial investor" it must make a return setting forth the name and address of each substantial investor, information with respect to its assets, and other information required by the Internal Revenue Service. In general, a substantial investor is a foreign person holding an interest in the entity whose pro rata share of the U.S. real property interest held by the entity exceeds $50,000. Under section 6039C(b)(3), the entity must also furnish each substantial investor with a statement showing the entity's name and the substantial investor's pro rata share of the U.S. real property interests held by the entity.

Under section 6039C(c), a separate reporting requirement applies to a foreign person holding U.S. real property interests who is not required to file a return under section 6039C(b) for the year. If such person did not engage in a U.S. trade or business at any time during the calendar year, and if the fair market value of the U.S. real property interests held by the foreign person equals or exceeds $50,000, then the foreign person must make a return setting forth his name, address, a description of his U.S. real property interests, and other information required by the Internal Revenue Service.

Section 6652(g) sets forth the penalties for each failure to meet the requirements of section 6039C.

Description of Regulations

These regulations would add a new 6a.6652(g)–1 to the temporary regulations under Subtitle C of title XI of Omnibus Reconciliation Act of 1981 implementing the penalties imposed by section 6652(g) of the Code.

Section 6a.6652(g)–1(a) provides that the penalty for each failure to meet the applicable requirements of section 6039C is $25 a day for each day the failure continues after the date prescribed for meeting such requirements (determined with regard to any extension of time for filing).

Section 6a.6652(g)–1(b) sets forth limitations on the amount of penalty to be imposed. For failure to meet any or all of the requirements of subsection (a) or (b) of section 6039C, for any calendar year, the penalty with respect to any person shall not exceed $25,000 with respect to each subsection. For failure to meet any or all of the requirements of subsection (c) of section 6039C, for any calendar year, the penalty with respect to any person shall not exceed the lesser of $25,000 or 5 percent of the aggregate of the fair market value of the U.S. real property interests owned by such person at any time during such calendar year.

Section 6a.6652(g)–1(c) defines the terms "fair market value," "failure," and "aggregate of the fair market value of U.S. real property interests" for purposes of § 6a.6652(g)–1. Under § 6a.6652(g)–1(c)(2), the failure to file a return for a calendar year or the omission from the return of any required information constitutes a failure to meet the requirements of section 6039C. Also, the failure to furnish a statement to each substantial investor, as required by section 6039C(b)(3), is a separate failure to meet the requirements of section 6039C from the failure to file a return under section 6039C(b)(1).

Section 6a.6652(g)–1(d) sets forth a rule of attribution of ownership for purposes of calculating the penalty limitation for failure to meet the requirements of section 6039C(c). For this purpose, U.S. real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

Section 6a.6652(g)–1(e) of the temporary regulations sets forth the three exceptions to the penalties required under § 6a.6652(g)–1(a). Section 6a.6652(g)–1(e)(1) provides that if security is filed in lieu of making a return for a calendar year in accordance with § 6a.6039C–5 of the regulations, no penalty will be imposed under § 6a.6652(g)–1(a) for failure to meet the requirements of section 6039C. Section 6a.6652(g)–1(e)(2) provides that no penalty will be imposed under § 6a.6652(g)–1(a) if it is established to the satisfaction of the director of the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania or in the case of returns concerning the Virgin Islands, the Commissioner of the Bureau of Internal Revenue, Tax Division, Charlotte Amalie, St. Thomas, V.I., that the failure to meet the requirements of section 6039C is due to reasonable cause and not to willful neglect. Since a person may furnish security instead of reporting, paragraph (e)(2) also provides that neither the fact that stock of a foreign corporation is registered in bearer form nor the fact that disclosure of ownership would contravene a secrecy law of any country constitutes reasonable cause for failure to comply with the requirements of section 6039C(b). Section 6a.6652(g)–1(e)(3) provides that if an individual's spouse or parent has filed a return under section 6039C(c) with respect to all U.S. real property interests held by such spouse or parent in accordance with § 6a.6039C–4(b), no penalty will be imposed on such individual for failure to file a return with respect to the same property under section 6039C(c).

Section 6a.6652(g)–1(g) provides examples illustrating the calculation of the penalty for failure to file under section 6039C (a), (b) and (c).

Drafting Information

The principal author of this regulation is Mary Elizabeth Dean of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. Personnel from other offices of the Internal Revenue Service and Treasury Department, however, participated in developing the regulations, both in matters of substance and style.

Regulatory Flexibility Act and Executive Order 12291

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule. The Commissioner of Internal Revenue has determined that this temporary regulation is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

List of Subjects in 26 CFR Part 6a

Bonds, Income taxes, Mortgages, Veterans, Foreign investments in United States real property interests.

Adoption of Temporary Regulations

The following new § 6a.6652(g)–1 is hereby added to 26 CFR Part 6a:

PART 6a—INCOME TAX, TEMPORARY INCOME TAX REGULATIONS UNDER SUBTITLE C OF TITLE XI OF THE OMNIBUS RECONCILIATION ACT OF 1980

§ 6a.6652(g)–1 Failure to make return or furnish statement required under section 6039C.

(a) *Amount imposed.* In the case of each failure to meet the requirements of—

(1) Section 6039C, relating to information returns with respect to United States real property interests, or

(2) Section 6039C(b)(3), relating to statements to be provided to substantial investors in United States real property interests,

on or before the date prescribed therefor (determined with regard to any extension of time for filing), the person failing to meet such requirement shall pay $25 for each day during which such failure continues.

(b) *Limitation.*—(1) *Domestic Corporations and Nominees.* The maximum penalty which may be imposed under paragraph (a) of this section on a domestic corporation or nominee for failure to meet the requirements of section 6039C(a) for any calendar year is $25,000.

(2) *Partnerships, Trusts, Estates and Foreign Corporations.* The maximum penalty which may be imposed on a partnership, trust, estate or foreign corporation for failure to meet the requirements of section 6039C(b) for any calendar year is $25,000.

(3) *Foreign persons holding U.S. real property interests and nominees.* The maximum penalty which may be imposed on a foreign person holding a U.S. real property interest or on a nominee holding a U.S. real property interest for a foreign person for failure to meet the requirements of section 6039C(c) for any calendar year is the lesser of $25,000 or 5 percent of the aggregate of the fair market value of the U.S. real property interests owned by such person at any time during such calendar year.

(c) *Definitions.*—(1) *Fair market value.* The term "fair market value" as used in this section is defined in § 6a.897–1 (in the **Federal Register** 47 FR 41541, Sept. 21, 1982).

(2) *Failure.* The term "failure to meet the requirements of section 6039C" includes the failure to file a return for any calendar year on the date prescribed therefor (determined with

regard to any extension of time for such filing), or the omission on a return of one or more items of information required by section 6039C and the regulations thereunder to be provided on the return. It also includes the failure to furnish a statement required by section 6039C(b)(3). The failure to furnish a return required under section 6039C(b)(1) and the failure to furnish a statement to a substantial investor as required by section 6039C(b)(3), are separate failures for purposes of paragraph (a) of this section. Also, each failure to provide a statement to each substantial investor is a separate failure for purposes of paragraph (a). Thus, if an entity has 100 substantial investors as defined in section 6039C and fails to furnish any of the required statements to substantial investors, there are 100 separate failures to furnish the required statement.

(3) *Aggregate of the fair market value of the United States real property interests.* The "aggregate of the fair market value of the U.S. real property interests" is the total of the fair market values of each U.S. real property interest owned at any time during the calendar year. Fair market value is determined as of December 31 of such year for property held at the end of the year and on the date of disposition for property disposed of during the year.

(d) *Attribution of ownership.* For purposes of calculating the penalty limitation under § 6a.6652(g)-1(b)(3) with respect to failure to meet the requirements of section 6039C(c), U.S. real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

(e) *Exceptions.*—(1) *Provision of security.* If a person otherwise required by section 6039C to file a return for a calendar year or furnish a statement to a substantial investor complies with the requirements of § 6a.6039C-5 relating to furnishing security in lieu of filing such return, or is exempt, by virtue of § 6a.6039C-5(f), from filing a return for such year with respect to its U.S. real property interests held, no penalty will be imposed under paragraph (a) of this section for failure to file such return or furnish such statement.

(2) *Showing of reasonable cause.* No amount shall be imposed under paragraph (a) of this section for a failure described in such paragraph if it is established to the satisfaction of the Director of the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155 or in the case of returns concerning the Virgin Islands, the Commissioner of the Bureau of Internal Revenue, Tax Division, Charlotte Amalie, St. Thomas, V.I. 00801, that such failure is due to reasonable cause and not to willful neglect. An affirmative showing of reasonable cause must be made in the form of a written statement, made under the penalties of perjury, containing a declaration by the person failing to make a return or furnish a statement under section 6039C setting forth all the facts alleged as reasonable cause. Whether reasonable cause is shown may depend upon the subsection of section 6039C under which the failure occurs. However, the fact that stock of a foreign corporation, or any other interest in any entity to which this section applies, is registered in bearer form does not constitute reasonable cause under this paragraph (e)(2) of this section for failure to comply with the requirements of section 6039C(b). Also, the fact that disclosure of ownership would contravene a secrecy law of any country does not constitute reasonable cause for failure to comply with the requirements of section 6039C(b). Where a return has been filed and there is an omission of one or more items of information required by section 6039C and the regulations thereunder, one of the facts to be considered in determining whether such failure is due to reasonable cause is the materiality of the item omitted.

(3) *Spouse or parent already filed with respect to same property.* If an individual files a return with respect to all U.S. real property interests held by such individual in accordance with § 6a.6039C-4(b), no penalty shall be imposed under this section on such individual's spouse or minor child for failure to file a return under § 6a.6039C-4 with respect to the same property.

(f) *Manner of payment.* The amount imposed under paragraph (a) of this section on any person shall be paid in the same manner as tax upon the issuance of a notice and demand therefor.

(g) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Domestic corporation X is required under section 6039C (a) to make a return for calendar year 1982. X does not file such return on or before May 15, 1983 as required under § 6a.6039C-1(c). The failure to file the return for calendar year 1982 continues throughout calendar years 1983, 1984, 1985, and 1986. The failure to file is not due to reasonable cause and no security has been furnished in lieu of filing. The maximum penalty which can be imposed on X for failure to file the 1982 return is $25,000, determined as follows:

	Penalty incurred in given year	Cumulative penalty for failure to file 1982 return
Total penalty incurred in 1983 ($25 per day × 230 days)	$5,750	$5,750
Total penalty incurred in 1984 (a leap year): ($25 per day × 366 days)	9,150	14,900
Total penalty incurred in 1985 ($25 per day × 365 days)	9,125	24,025
Total penalty incurred in 1986 (lesser of $25 per day × 365 days or $975 (remaining penalty which may be imposed))	975	25,000

Example (2). The facts are the same as in example (1) except that X also fails to file a return under section 6039C (a) for calendar year 1983. The failure to file its return for calendar year 1983 continues throughout calendar years 1984, 1985, 1986 and 1987. The total penalty which may be imposed on X for failure to file its return for calendar year 1983 is $25,000. The amount of penalty which can be imposed on X in calendar years 1984, 1985, 1986 and 1987 is determined as follows:

	Penalty for 1982 failure	Penalty for 1983 failure	Total penalty for given year
Penalty incurred in 1984 (a leap year):			
For failure to file 1982 return ($25 per day × 366 days)	$9,150		
For failure to file 1983 return ($25 per day × 230 days)		$5,750	
Total			$14,900
Penalty incurred in 1985:			
For failure to file 1982 return ($25 per day × 365 days)	9,125		
For failure to file 1983 return ($25 per day × 365 days)		9,125	
Total			18,250
Penalty incurred in 1986:			
For failure to file 1982 return (lesser of $25 per day × 365 days or $975 (remaining penalty which may be imposed))	975		
For failure to file 1983 return ($25 per day × 365 days)		9,125	
Total			10,100
Penalty incurred in 1987: For failure to file 1983 return (lessor of $25 per day × 365 days or $1,000 (remaining penalty which may be imposed))		1,000	
Total			1,000

Example (3). Foreign corporation Y is required under section 6039C(b)(1) to make a return for calendar year 1982. In addition, Y is required under section 6039C(b)(3) to furnish statements to each substantial investor in U.S. real property interests. Y has 10 such substantial investors. Y does not file such return on or before May 15, 1983 as required under § 6a.6039C-1(c), nor does it furnish the required statements on or before January 31, 1983 as required under § 6a.6039C-3(h). The failure to file the return for calendar year 1982 and to furnish the required statements for 1982 continues

throughout calendar years 1984 and 1985. The failure to meet the requirements of section 6039C(b) are not due to reasonable cause and no security has been furnished in lieu of filing. The total penalty which can be imposed on Y for failure to file the return and statements required under section 6039C(b) for calendar year 1982 is $25,000. The amount of penalty incurred by Y in calendar year 1983 for failure to file the return and statements for calendar year 1982 is $25,000, determined as follows:

Penalty incurred in 1982:	
For failure to file return ($25 per day × 230 days)	$5,750
For each failure to furnish a statement required by section 6039C(b)(3) ($25 per day × 10 statements × the 334 days from February 1, 1983 to December 31, 1983 ($83,500) but not more than $19,250 (which when added to $5,750 would total $25,000))	19,250
Total	25,000

Since Y has incurred the maximum penalty for failure to file its return and statements required for 1982 by the end of calendar year 1983, no further penalty for these failures is imposed.

Example (4). Under section 6039C(c) foreign person Y is required to make a return for calendar year 1982. Y does not file such return on May 15, 1983 and the failure is not due to reasonable cause. No security has been furnished in lieu of filing. All properties owned by Y in 1982 are U.S. real property interests. Y purchased property M in January 1982 when its fair market value was $10,000. In March, Y purchased property N when its fair market value was $15,000. In November, Y sold property M for $20,000. The fair market value of property N on December 31, 1982, was $20,000. The total of the fair market values of M and N (M as of the date of its sale and N as of December 31, 1982) is $40,000. The maximum penalty which may be imposed on Y for failure to meet the requirements of section 6093C(c) for any calendar year is the lesser of $25,000 or 5 percent of the aggregate of the fair market values of the U.S. real property interests owned by Y at any time during such calendar year. Since $2,000 (5 percent of $40,000) is less than $5,750 ($25 times 230 days, the number of days in calendar year 1983 for which the failure continues), the maximum penalty which may be imposed on Y in 1983 is $2,000. Since the maximum penalty for the failure to file the 1982 return is incurred in 1983, no amount may be imposed for Y's continuing failure to file the return for calendar year 1982 during calendar years after 1983.

(h) Effective date. This section shall apply to 1980 and subsequent calendar years. The calendar year 1980 shall be treated as beginning on June 19, 1980 and ending on December 31, 1980.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: December 30, 1982.

David G. Glickman,
Acting Assistant Secretary of the Treasury.

[FR Doc. 83-254 Filed 1-5-83; 8:45 am]
BILLING CODE 4830-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6122]

National Flood Insurance Program; Final Flood Elevation Determination; Texas

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Deletion of final rule for the City of Rosenberg, Fort Bend County, Texas.

SUMMARY: The Federal Emergency Management Agency has erroneously published the final base flood elevation (BFE) determination for the City of Rosenberg, Fort Bend County, Texas at 47 FR 47826, October 28, 1982. This notice will serve to delete that publication.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Ph.D., National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: As a result of ineffectual community notification and lack of the standard period for review of the proposed determination, the Federal Emergency Management Agency has determined that the notice of final flood elevation determination for the City of Rosenberg, Texas, published at 47 FR 47826 on October 28, 1982, should be deleted.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 15, 1982.

Dave McLoughlin,
Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-353 Filed 1-5-83; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for City of Mesa, Arizona; Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Mesa, Arizona. It has been determined by the Acting Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Mesa, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. 040048 Panel 0020B, published on October 6, 1980, in 45 FR 66116, indicates that Lots 44 through 48, 53 through 66, 100 through 105, and 108

through 124, Hohokam Trails, Unit Two, Mesa, Arizona, recorded as Instrument No. 417006 in Docket 15721, pages 1155 and 1156 in the Office of the Recorder, Maricopa County, Arizona, are located within the Special Flood Hazard Area.

Map No. 040048 Panel 0020B is hereby corrected to reflect that the existing structures located on the above-mentioned lots are not within the Special Flood Hazard Area identified on May 15, 1980. These structures are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Acting Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 10, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-354 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Dade County, Florida; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Dade County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Dade County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number 125098, Panel 0275 D published on October 6, 1980 in 45 FR 66058 indicates that the property at 9721 S.W. 135 Avenue in Dade County, Florida, also known as Lot 25 of Block 9 of Third Addition to Calusa Club Estates, according to the plat thereof, recorded in Plat Book 103 at Page 78 of the Public Records of Dade County, Florida is located within the Special Flood Hazard Area.

Map Number 125098 Panel 0275 D is hereby corrected to reflect that the existing structure on the above property is not located within the Special Flood Hazard Area identified on November 14, 1980. The structure is located in Zone B. However, portions of the lot would still be inundated by the base flood.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 6, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-355 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Hillsborough County, Florida; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Hillsborough County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Hillsborough County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number 120112, Panel 0376 B published on October 6, 1980 in 45 FR 66059 indicates that the Sabal Industrial Park, Phases 1–A, 1–B, and 2, located in Section 7, Township 29 South, Range 20 East, and in Section 12, Township 29 South, Range 19 East, recorded in Plat Book 46, Page 67; Plat Book 50, Page 17; and Plat Book 53, Page 29, respectively, are located within the Special Flood Hazard Area.

Map Number 120112, Panel 0376 B is hereby corrected to reflect that the portions of the above-mentioned property lying outside the limits of the drainage easements shown on the record plats are not within the Special Flood Hazard Area identified on June 18, 1980. These portions are located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 14, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-356 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5923]

Letter of Map Amendment for City of Las Vegas, Nevada; Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Las Vegas, Nevada. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Las Vegas, Nevada, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. 325276 Panel 0025B, published on October 21, 1980 in 45 FR 69451, indicates that Lot 1, Block 1, The Village at Washington, Las Vegas, Nevada, recorded as Document No. 1530678 in Book 28, page 9 of Plats, Book No. 1571 of Official Records, in the Office of the Recorder, Clark County, Nevada, is located within the Special Flood Hazard Area.

Map No. 325276 Panel 0025B is hereby corrected to reflect that the existing structures located on the above-mentioned lots are not within the Special Flood Hazard Area identified on September 30, 1980. These structures are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 10, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-357 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Mequon, Wisconsin; Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Mequon, Wisconsin. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Mequon, Wisconsin, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for those structures as a condition or Federal of federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H&I 555564B, Panel No. 077 published on October 6, 1980, in 45 FR 66089, indicates that the existing residential structures located on Lot No. 20, River Forest Park and Lots Nos. 21 through 24, River Forest Park Addition No. 1, City of Mequon, Ozaukee County, Wisconsin, as recorded in Volume O of Plats, Pages 40 and 41 and Volume R of Plats, Pages 5 and 6, respectively, in the Office of the Register of Deeds of Ozaukee County, Wisconsin, are located within the Special Flood Hazard Area.

Map No. H&I 555564B, Panel No. 07, is hereby corrected to reflect that the existing residential structures located on the above-mentioned property are not within the Special Flood Hazard Area identified on November 7, 1972. The structures are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 3, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-358 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 2, 24, 25, 30, 31, 32, 70, 71, 77, 90, 91, 96, 113, 167, 175, 184, 185, 188, 189, and 195

[CGD 82-036]

Rules of Road and Navigational Equipment; Removal of References and Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing all references to the "Rules of the Road" and "western rivers" (See Definitions below) and requirements for navigational equipment from the merchant vessel inspection regulations of Title 46, Code of Federal Regulations. These references and requirements are redundant to, or conflict with, the Inland Navigational Rules Act of 1980 and the International and Inland Navigation Rules of Title 33, CFR. These removals are strictly editorial; they do not relieve vessel owners, operators, or masters from compliance with the applicable navigation statutes and rules.

DATES: This final rule becomes effective for all U.S.-flag vessels on international voyages and all vessels on United States waters other than the Great Lakes on January 6, 1983. On the Great Lakes, this Final Rule becomes effective on March 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Marine Technical and Hazardous Materials Division (G–MTH/12), Office of Merchant Marine Safety, Room 1216, U.S. Coast Guard Headquarters, 2100 2nd St. SW, Washington, DC 20593. (202) 426–2174.

SUPPLEMENTARY INFORMATION: Because the removal of these redundant and conflicting regulations is a nonsubstantive editorial action, the Coast Guard finds that notice and public procedure thereon are unnecessary and may be omitted under 5 U.S.C. 553(b)(3)(B), and that it may be made effective in less than 30 days after publication.

Definitions

"Rules of the Road" is the traditional term for the rules and regulations based on statutes and international agreements that govern the navigation of vessels so as to minimize the possibility of a collision between them. The term "Navigation Rules" is now preferred. The term "western rivers" as used in conjunction with "Rules of the Road" referred to the Mississippi, Missouri, and Ohio Rivers and their tributaries; the Atchafalaya River, and the Red River of the North. "Act" as used in the discussion following means the Inland Navigational Rules Act of 1980, Pub. L. 96–591, December 24, 1980 (94 Stat. 3415 *et seq.*, 33 U.S.C. 2001 *et seq.)*

Discussion

The new Inland Navigation Rules, modeled after the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) went into effect on all United States inland waters, except the Great Lakes, on December 24, 1981 (46 FR 62443, Dec. 24, 1981.). The Inland Navigation Rules will supersede the present Great Lakes Rules on March 1, 1983 (47 FR 15135, Apr. 8, 1982.). The International Navigation Rules are found in 33 CFR Part 81; the Inland Navigation Rules are found in the Act supplemented by 33 CFR Parts 84 through 89. These new Navigation Rules supersede the former "Rules of the Road".

The merchant vessel inspection subchapters (C, D, H, I, R, T, and U) of Title 46, Code of Federal Regulations, contain numerous references to the former "Rules of the Road" and to "western rivers" and requirements for navigational equipment such as navigation lights, whistles, bells, and foghorns which pertain to the international or inland navigation rules. With the coming into effect of the new Inland Navigation Rules, these references and requirements have become obsolete. In view of the goal of Executive Order 12291, February 17, 1981, to "minimize duplication and conflict of regulations", the Coast Guard is removing the definitions of, and references to "Rules of the Road" and "western rivers" and the requirements for navigation lights, whistles, bells, and foghorns wherever they appear in the merchant vessel inspection subchapters of Title 46, CFR. In a separate rulemaking action, Coast Guard docket number CGD 81-059, the Coast Guard is also revising the references to the "Rules of the Road" in the merchant vessel personnel licensing regulations (46 CFR Parts 10 and 187).

Removing these references and requirements is strictly an editorial action to eliminate redundant and obsolete regulations. The International and Inland Navigation Rules in the Act and Title 33, CFR, which govern the safe navigation of vessels, also contain the technical and performance requirements for navigational equipment.

Specific Removals

Section 2.20-5 required that a copy or copies of the applicable "Rules of the Road" publications be carried on board vessels over 65 feet in length operating on the western rivers, inland waters, and Great Lakes. The Act repealed the statutory requirements cited in that section. 33 CFR 88.05 now requires the operator of each self-propelled vessel 12 meters or more in length to have on board, after January 1, 1983, a copy of the Inland Navigation Rules.

The requirements in §§ 25.05-10 and 96.20-10 for lights and sound-signal devices on motorboats not over 65 feet in length operating on inland waters, the Great Lakes, and western rivers were based on Sections 3, 4, and 5 of the Motorboat Act of 1940, 54 Stat. 164 (46 U.S.C. 526b, 526c, and 526d). These sections were repealed by the Act, effective December 24, 1981. Motorboats must now comply with the applicable provisions in the Act and 33 CFR Parts 81, 84, and 86. It should be noted that the vessel length criteria and signal technical details in these parts differ from those in the removed sections. Racing boats, which formerly would have been exempt from the sound-signal device requirements under 46 CFR 25.05-10(b) may now obtain an exemption by applying for a "Certificate of Alternative Compliance" under either 33 CFR Part 81 (International) or 33 CFR Part 89 (Inland). Other general exemption provisions in the Act apply to vessels under 20 meters and under 12 meters in length and vessels built or under construction before December 24, 1980.

The removals described in the following paragraphs affect 46 CFR Subchapter H; the discussion, however, applies as well to similar removals in 46 CFR Subchapters C, D, I, R, T, and U.

Sections 70.10-37 defined "Rules of the Road" and listed the Coast Guard publications containing those rules. Section 70.10-47 defined "western rivers" by referring to Coast Guard Publication CG-184 "Rules of the Road—Western Rivers." Removal of Subparts 77.17, 77.23, and 77.25 obviates the need for these definitions. The term "Rules of the Road" is no longer used in either the Act or in 33 CFR Subchapter E. The term "Western Rivers" is defined in the Act, but that definition differs from the definition referred to in the removed section.

Subpart 77.17: Section 77.17-1(a) was a general restatement of the former requirements of 33 CFR Subchapter D. The design standards for light screens in § 77.17-5 have been superseded by technical performance requirements in Annex I of 33 CFR Part 81 and 33 CFR Part 84.

Subparts 77.20, 77.23, and 77.25: The requirements in these subparts for various types of sound-signaling devices are either redundant to, or conflict with, the requirements in Annex III of the 72 COLREGS and Annex III of the Inland Navigation Rules which are incorporated in Title 33 as Annex III of Part 81 and Part 86, respectively.

Drafting Information

The principal persons involved in drafting this final rule are Mr. Frank K. Thompson, Project Manager, Office of Merchant Marine Safety, and LT Walter J. Brudzinski, Project Counsel, Office of Chief Counsel.

Regulatory Evaluation

This final rule has been evaluated under Department of Transportation Order 2100.5 "Policies and Procedures for Simplification, Analysis, and Review of Regulations" dated May 22, 1980, and Exective Order 12291 and has been determined to be neither significant nor major. Since removal of redundant and conflicting regulations is merely editorial, it will have no effect on the economy in terms of domestic or international competition, cost or price increases, employment, investment, productivity, or innovation. For this reason also, the expected impact of this action is so minimal that no final evaluation has been prepared.

Regulatory Flexibility Analysis

This action has been evaluated under the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat 1164) and is certified to have no significant impact on a susbstantial number of small entities. This action has no significant impact because it is only editorial in nature.

List of Subjects in 46 CFR Parts 2, 24, 25, 30, 31, 32, 70, 71, 77, 90, 91, 96, 113, 167, 175, 184, 185, 188, 189, and 195

Marine safety, Vessels.

In consideration of the foregoing, Chapter I of Title 46, Code of Federal Regulations is amended as follows:

1. The following subparts, sections, and paragraph are removed:

§ 2.20-5
§ 24.10-25
Subpart 25.05 and heading
§ 30.10-62
§ 32.15-1
§ 32.15-3
§ 32.15-5(a)
§ 70.10-37
§ 70.10-47
Subpart 77.17 and heading
Subpart 77.20 and heading
Subpart 77.23 and heading
Subpart 77.25 and heading
§ 90.10-31
§ 90.10-39
Subpart 96.20 and heading
§ 167.40-10
§ 167.40-15
§ 175.10-35
Subpart 184.15 and heading
§ 185.20-5
§ 188.10-63
Subpart 195.20 and heading

PARTS 31, 71, 91, and 189—[AMENDED]

§§ 31.01-5, 71.20-15, 91.20-15, and 189.20-15 [Amended]

2. The last sentence of §§ 31.01-5(a), 71.20-15(a), 91.20-15(a), and 189.20-15(a) is revised to read "The inspection shall be such as to ensure that the workmanship of all parts of the vessel and its equipment is in all respects satisfactory and that the vessel is provided with lights, means of making sound signals, and distress signals as required by applicable statutes and regulations."

§§ 31.10-15, 71.25-10, 91.25-10, and 189.25-10 [Amended]

3. The last sentence of §§ 31.10-15(b), 71.25-10(a), 91.25-10(a), and 189.25-10(a) is revised to read "The lights, means of making sound signals, and distress signals carried by the vessel shall also be subject to the above-mentioned inspection for the purpose of ensuring that they comply with the requirements of the applicable statutes and regulations."

PART 113—COMMUNICATION AND ALARM SYSTEMS AND EQUIPMENT

4. The note following § 113.65-5 is revised to read as follows:

§ 113.65-5 General requirements.

* * * * *

Note.—The general requirements for whistles and foghorns are in Part D of Section 2 of the Inland Navigational Rules Act of 1980, Pub. L. 96-591, December 24, 1980 (94 Stat. 3429 *et seq.*; 33 U.S.C. 2032 *et seq.*), 33 CFR Part 81, and 33 CFR Part 86.

[91 Stat. 310, 94 Stat. 3433; 33 U.S.C. 1607, 2071; 49 CFR 1.46(c)(11), (n)(14)]

Dated: December 27, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83-89 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

49 CFR Part 173

[Docket HM-139E; Amdt. No. 173-159]

Conversion of Individual Exemptions Into Regulations of General Applicability

Correction

In FR Doc. 82-32905 beginning on page 54824 in the issue of Monday, December 6, 1982, make the following correction:

On page 54827, middle column, in § 173.1015 (a)(1) "not more than 2 grams" should have read "not more than 12 grams".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

40 CFR Parts 1245 and 1246

[No. 37025]

Rail Carriers; Revisions to the Preliminary Report of Number of Employees of Class I Railroads and the Reports of Employees, Service, and Compensation, Filed by Class I Railroads

AGENCY: Interstate Commerce Commission.

ACTION: Notice of postponement of effective date of final rule.

SUMMARY: At 47 FR 53866, November 30, 1982, the Commission revised the monthly annual report forms pertaining to the compensation, service hours, and number of Class I railroad employees. Upon consideration of the comments filed by The Association of American Railroads (AAR) on behalf of its member railroads, the effective date of the final rule in the proceeding will be postponed from the reporting year beginning January 1, 1983 until January 1, 1984.

The AAR's request for postponement is being granted because of the substantial difference in reporting categories adopted in the final rule and those proposed in the notice of proposed rulemaking. The final rule was not served until November 18, 1982 and it did not leave sufficient time to implement programming changes for the revised reporting categories.

In order to provide for more accurate reporting of employees service and compensation data, the effective date of the final rule will be postponed until January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275-7448.

Decided: December 29, 1982.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-379 Filed 1-5-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 4
Thursday, January 6, 1983

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

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1209

[Docket No. 82-18; Notice 4]

Incentive Grant Criteria for Alcohol Traffic Safety Programs

Note.—This document originally appeared in the **Federal Register** of Wednesday, January 5, 1983. It is reprinted in this issue to meet requirements for publication on the Monday–Thursday schedule assigned to the Department of Transportation.

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

ACTION: Notice of proposed rulemaking and notice of public hearings.

SUMMARY: This notice proposes criteria for determining effective programs to reduce traffic accidents resulting from persons driving while under the influence of alcohol. This effort is undertaken pursuant to Pub. L. 97–364, which provides for two categories of federal incentive grants, basic grants and supplemental grants, to States that implement effective programs to reduce drunk driving. This rulemaking will also set forth the means by which a State may certify to NHTSA facts necessary to establish grant eligibility, and the procedure by which NHTSA will award such grants. This notice also announces a public hearing and invites submission of written comments to the public docket on this subject.

DATES: A public hearing will be held on January 11, 1983. All written comments must be received by January 14, 1983. The agency will isue a final rule on February 1, 1983. The criteria for a basic grant will go into effect upon publication of the final rule. The criteria for a supplemental grant are scheduled by statute to become effective on April 1, 1983.

ADDRESSES: The January 11, 1983, hearing will be held at the Omni International Hotel, Elizafield Room, 1 Omni International, Atlanta, Georgia. The hearing schedule will be from 9 a.m. to 12 p.m. and from 1:30 p.m. to 5 p.m.

Written comments should refer to the docket number and the number of the notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington D.C. 20590 (Docket hours are 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. George Reagle, Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration, 400 Seventh Street, SW. Washington, D.C. 20590 (202–426–0837). To schedule a time for appearing at the January hearing contact: Marian Tomassoni or Joe Jeffrey, Office of Associate Administrator for Traffic Safety Programs, NHTSA 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–1634).

SUPPLEMENTARY INFORMATION: On November 4, 1982, (47 FR 51152) the National Highway Traffic Safety Administration (NHTSA) issued an advance notice of proposed rulemaking seeking comments on possible ways to implement the alcohol traffic safety incentive grant program established by Pub. L. 97–364 (23 U.S.C. 408, the Act). NHTSA primarily sought comments on what definitions and criteria the agency should establish for States to be eligible for both basic and supplemental grants, which can total up to 50 percent of the amount apportioned to a State under Section 402 of the Highway Safety Act of 1966.

To provide an increased opportunity for public comment, NHTSA held a public hearing on December 13, 1982, in Washington, D.C. on the proposal. Persons representing numerous States, professional organizations, citizen groups, and others testified. In addition, many interested parties submitted written comments to the docket for this rulemaking.

The proposal being issued today is based on the agency's review of the hearing testimony, comments received on the advance notice of proposed rulemaking and the Interim Report to the Nation prepared by the Presidential Commission on Drunk Driving. The agency will hold a public hearing on this proposal on January 11, 1983 in Atlanta, Georgia to coincide with a meeting of the National Association of Governors' Highway Safety Representatives. Significant comments to the first notice are addressed below.

Basic Grant Criteria

The Act established four criteria that must be met by a State in order to be eligible for a basic grant in the amount of 30 percent of each State's fiscal year 1983 apportionment under section 402 of the Highway Safety Act. The agency notes again that because the four basic criteria are statutorily mandated by Congress, the agency does not have the authority to change, by deletion or addition, the substantive requirements for a basic grant, as was requested by some of the commenters. As was also previously noted, however, several of the terms used in the statutory language setting forth the basic grant criteria were undefined, and the agency sought comments on several possible definitions that the agency believed would be consistent with the legislative purpose of the Act. In addition, NHTSA sought comments on ways by which States might most easily and effectively demonstrate that the basic grant criteria have been met.

Criterion No. 1: Prompt License Suspension

The first criterion established by Congress for basic grant eligibility requires:

> The prompt suspension, for a period not less than ninety days in the case of a first offender and not less than one year in the case of any repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffice offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer.

Terms Used: "Prompt"

The agency proposed to define "prompt" as a mandatory suspension of the privileges of a driver's license which occurs no later than 30 days after a person is arrested for drunk driving. A number of States commented that in order to comply with such a stringent time requirement, they would have to implement entirely new programs to process driver license suspensions

administratively. A representative of the State of New Jersey estimated that adopting such a system, with all the necessary due process safeguards, would cost more than the value of any basic grant for which it might therefore become eligible, and noted that under its system of judicially administered suspension, the average license suspension occurs within 46 days. Based on a survey of its membership, the National Association of Governors' Highway Safety Representatives (NAGHSR) recommended the agency define prompt suspension as suspension within 45 days. NAGHSR noted that 19 of the 34 members responding to the survey currently take at least 60 or more days to suspend or revoke a license. NAGHSR said setting a 45-day period, would act as an incentive for States to accelerate their license suspension processes. Rhode Island recommended that the agency consider requiring States to process a certain percentage of all suspensions within the 30 day criterion.

The agency recognizes that currently most States impose a license suspension within 30 to 60 days after a person is convicted of an alcohol-related traffic offense, with the process of trial and conviction taking anywhere from 60 days to one year from the date of arrest. The legislative history of the Act emphasizes that Congress wanted to increase the deterrance effect of license suspension by cutting down on the long delays between arrest and subsequent license sanction.

The Presidential Commission on Drunk Driving (the Commission) in its Interim Report to the Nation also stressed the need to establish license suspension as a swift and certain penalty for drunk driving. The Commission's report cited examples of how such systems can be established either administratively or judicially.

Experience in such States as Minnesota and Iowa has shown that administrative license suspension can be effective. The agency recognizes that setting up the necessary administrative procedures can be costly, but believes that in carrying out its authority under the Act it would not necessarily be inappropriate to consider measures which may not be initially cost-effective, in and of themselves, or in comparison with the size of potential grants.

To accommodate these concerns, the agency proposes to define "prompt" as suspension of a license within 30 days of arrest for at least 60 percent of the suspension cases. In addition, the acency proposes that the overall average time to suspend a license cannot exceed 45 days.

The agency recognizes that if suspensions are judically imposed, there may be an increase in requests for jury trials and thus the average time to suspend a license may increase. The agency believes that permitting the average time to be 45 days will allow a sufficient margin of time to account for instances where trial backlogs prevent suspension within 45 days.

As discussed in the comments, the agency recognizes that all States may not be able to comply with a 30-day requirement, but that some already do. The agency believes that allowing 60 days to process a suspension, as requested by some States, would not require States to increase their efforts as required by the Act. Requiring States to suspend licenses within 30 days of arrest would require many States to significantly improve their judicial or administrative license suspension process. A 30-day period will also allow States that choose to use an administrative process sufficient time to provide license suspension appeal hearings that will satisfy the due process standard.

The agency cannot adopt the suggestion of the California Highway Patrol that the time period for suspension be measured from date of conviction, rather than the date of arrest. The Act specifically mandates that the time period is to be measured from date of arrest.

In the advance notice, NHTSA said that States which authorize the immediate suspension of driving privileges by physical confiscation of a license upon arrest would meet the prompt suspension criterion. One commentator has correctly noted that the physical taking of a license does not itself suspend a license, and that suspension only results from a subsequent action of the licensing authority in the State.

"Suspension"

Several of the commenters, such as the American Automobile Association (AAA), Florida Bureau of Highway Safety and the California Highway Patrol, requested the agency specifically to include within the definition of "suspension" the use of restricted licenses, i.e., a suspension of some, but not all, driving privileges for a stated period. Such restricted licenses commonly are used to permit driving for limited purposes, such as going to work and attending an alcohol education or treatment program. Several commenters, such an NAGHSR, also noted that the impact of a 90-day suspension can vary widely between rural areas, where public transportation is limited or unavailable, and urban areas, where a loss of driving privilege may not cause transportation difficulties. All commenters addressing the issue agreed that restricted licenses should only be used for first offenders.

Because the issue of restrictive licenses was not addressed by the majority of commenters the agency seeks additional comment on this issue. The principal intent of the draftsmen was as stated in the Act's full 90-day suspension of all driving privileges. Testimony was received by the Commission on both sides of the issue, and tended to show both lax and stringent enforcement of restrictions, depending on the jurisdictions and available enforcement resources involved. The Commission has tentatively recommended that strict uniform standards should be adopted to govern such sanctions, and that they be allowed only in exceptional cases.

The agency believes that the carefully controlled use, in exceptional circumstances specific to the offender, and under statewide published guidelines, of a 30-day full suspension of driving privileges followed by a 60-day period of enforced restricted driving, could fulfill the congressional purposes of using license suspension as a key deterrent to drunk driving. A promptly imposed 30-day period of full suspension impresses the drunken driver that punishment is swift and certain. Allowing the use of restricted license can help ensure that the driver can attend an appropriate education/rehabilitation program within a short time of committing the offense.

The agency believes that the use of restricted licenses would not in any event be warranted for repeat offenders or for those who refuse to take a chemical test under the implied consent statutes.

NHTSA therefore seeks comments on two alternative definitions of the term "suspension." The first would define suspension as including only a full loss of driving privileges for the statutory period of 90 days. The second would allow the use of a 30-day full suspension, followed by a 60-day period of restricted driving privileges, under State-wide published guidelines, in exceptional circumstances specific to each offender, and for the limited purpose of driving between a residence and a place of employment, and/or to and from an alcohol education or treatment program.

Repeat Offender

NHTSA's proposal to define a repeat offender as anyone convicted of DWI or

a similar alcohol-related traffic offense more than once in five years was supported by the commenters and therefore the agency is proposing to adopt the definition in the final rule.

Refusal of Second Test

The agency proposed that mandatory license suspension should apply to a refusal by a driver to take more than one chemical test, even if the driver consented to the first test. The California Highway Patrol support the use of a second test in instances where the officer has a reasonable belief that the driver is under the influence of drugs. North Carolina, however, suggested that the requirement for a second test is unnecessary and could be counterproductive by eroding public confidence in the alcohol breath test program.

One commenter who supported the proposed approach nevertheless suggested that the agency either delete the requirement or incorporate it as a criterion for a supplemental grant, on the asserted grounds that such a requirement could necessitate a change in every State law in a very short time for States to be eligible for a basic grant.

The statutory language does not permit such an interpretation. The agency's understanding of the Congressional intent in the language of the criterion is a desire to ensure that where a second test is authorized, and proposed to a driver under State law, a refusal should be grounds for mandatory suspension. The agency concurs and proposes no change.

Demonstrate Compliance

Commenters did not oppose the proposed showings that NHTSA set forth by which States might demonstrate compliance with this criterion. The agency therefore proposes to adopt a requirement in the final rule that States provide NHTSA with a copy of the law, regulation or guideline implementing mandatory license suspension, information on the number of licenses suspended, the average length of suspension for first-time and repeat offenders and for refusals to take chemical test and the average number of days between the offense and the sanctioning action.

Criterion No. 2: Mandatory Sentence

The second criterion established by Congress for basic grant eligibility requires:

> A mandatory sentence, which shall not be subject to suspension or probation, of (i) imprisonment for not less than 48 consecutive hours, or (ii) not less than ten days of community service, of any person convicted of driving while intoxicated more than once in any five-year period.

Commenters uniformily supported the imposition of mandatory sentences. Several commenters, such as New York and Missouri, requested the agency to more specifically define what is meant by "imprisonment". They pointed out that most States have a serious problem with jail overcrowding. To provide States with more flexibility, the agency is proposing that imprisonment be interpreted so as to include confinement (restriction of freedom to leave) not only in the traditional prison/jail environment, but also in such places as minimum security facilities or in-patient rehabilitation/treatment centers. Confinement in such facilities would provide the same deterrence as confinement in jail.

Several California agencies objected to the requirement that the period of minimum imprisonment be 48 *consecutive* hours. They pointed out that in California the sentence time does not have to consist of full 24-hour days nor does it have to be consecutive. The criteria of "48 consecutive hours" is statutorily mandated in the Act and therefore cannot be changed by NHTSA. Likewise, Massachusetts' suggestion that the penalty be more severe and Missouri's suggestion that requiring participation in a long-term rehabilitation program with supervised probationary conditions be adopted as an alternative to a mandatory sentence cannot be adopted, although more severe minimum penalties would of course establish eligibility.

Demonstrate Compliance

No commenter opposed the proposed requirement for demonstrating compliance with this criterion. Therefore, the agency proposes to adopt, in the final rule, a requirement that States provide NHTSA with copies of the existing legislation or regulations on the subject, and with information on the numbers of people convicted of an alcohol-related traffic offense more than once in any five year period, the places of confinement used and the average sentences imposed for those persons.

Criterion No. 3: Illegal Per Se Laws

The third criterion established by Congress for basic grant eligibility requires State to have a law that:

> Provides that any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

The agency's proposal to accept a State *per se* law, which makes the act of driving with a blood alcohol concentration (BAC) of 0.10 percent an offense in and of itself as evidence of compliance with this criterion was uniformly supported and the agency therefore proposes to adopt the same interpretation in the final rule.

Criterion No. 4: Increased Enforcement/ Public Information Efforts

The fourth and final criterion established by Congress for the basic grant eligibility requires:

> Increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

NHTSA proposed that States demonstrate increases in their levels of alcohol-related enforcement and public information efforts by comparing the levels of effort in fiscal year 1982 with fiscal year 1981. The use of 1981 and 1982 was viewed as reasonable by some commenters, such as Mississippi. Others, such as the International Association of Chiefs of Police (IACP), commented that the 1981–1982 time frame might not provide an accurate measure. IACP said that many law enforcement agencies have emphasized efforts to reduce drunk driving as a priority program for the past several years. The agency agrees that it may be more appropriate to use a baseline which takes into account a State's activities over a longer period of time. The agency therefore proposes that the baseline measurement consist of either the comparison of FY 82 (or later years) with the one preceding year, or with the average of the State's enforcement and public information activities over the three years preceding the year in which a State first applies for a grant. However, to qualify for subsequent year grants a State should demonstrate increased efforts over the preceding year program.

Several commenters, such as the California Highway Patrol and Illinois State Police, stressed that in determining whether a State is in compliance with this criterion, NHTSA should not emphasize specific indicators, such as arrest and conviction rates, but should instead look to whether the efforts have produced a reduction in drunk driving accidents, deaths and injuries. Other, such as the IACP and NAGHSR, said that the agency should not concentrate solely upon on-the-road inforcement efforts, but should also examine how a State implements a systems approach to the problem.

The purpose of this criterion is to deter drunk driving by increasing the public's perception of risk of being

caught and punished. The agency agrees that the emphasis should be on improvements to the total drunk driver control system that contribute to that purpose, and not only on one or more specific indications of success.

To provide the States with flexibility to demonstrate that they have increased their enforcement and public in information efforts, the agency has tentatively decided not to specify what data a State must provide. States would thus be able to determine which indicators they believe are most appropriate to demonstrate their increased efforts. Those indicators could include development of supportive administrative policy, increases in arrests and convictions, license suspensions/revocations, decrease in repeat offenders, increased training for law enforcement, prosecutors and judges, decreases in alcohol related crashes, increases in rehabilitation referral rates, changes in the public's perception of risk, number of PSA's, media support and citizen involvement in reporting drunk drivers.

Supplemental Grant Criteria

Need for Flexibility

Almost all of the commenters, including NAGHSR and the National Highway Safety Advisory Committee (NHSAC), urged the agency to provide States with maximum flexibility in determining which supplemental grant criteria they might choose to implement. They emphasized that each State should have the ability to tailor its program to fit its own situation. Several States, such as Idaho, Iowa and others, suggested that rather than setting specific minimum criteria a State must meet, the agency should create a list of criteria and specify that States have to meet a certain number or percentage of that list.

Some States, such as Wisconsin and New York, suggested that the agency develop a system that would give a State credit for incremental compliance. Thus, Wisconsin suggested that a State would receive some credit for proposing legislation, even if that legislation did not pass.

The agency recognizes that there is a legitimate need to provide States with flexibility in designing a program that will be effective in their State. At the same time, the agency must act in accordance with the Congressional mandate that the agency establish criteria for effective programs and the section 408 funds be used as an incentive to encourage States to significantly improve their alcohol traffic safety programs. The legislative history of the Act indicates that Congress was concerned that States not only adopt and implement new programs to combat drunk drivers, but that the States fully implement the programs and authority that they already have in place.

Based on the criteria proposed in the advance notice, criteria suggested by individual commenters and criteria contained in the Presidential Commission's Interim Report, the agency is proposing to establish a total of twenty-one eligibility criteria for receiving a supplemental grant. For the purpose of emphasis, NHTSA has ranked the supplemental criteria in what in its view is their general relative order of significance and potential impact on the total alcohol highway safety problem. While this may not mean that Criterion No. 3, for example, is necessarily of less importance than Criterion No. 2, it may be taken to indicate a belief that large scale differences in placement are considered important. Thus, early criteria may be considered to be greater in significance than lowest ranking criteria.

The agency is seeking comments on two alternative ways of establishing requirements on which criteria a State would have to have in place and implement or adopt and implement in order to receive a supplemental grant.

The first alternative on which the agency seeks comments would be to provide that States can receive a grant of less than 20 percent of its fiscal year 1983 section 402 funds if it implements some, but not all, of the twenty-one criteria. The agency requests comments on what proportion of the full 20 percent grant should be given to a State for each criteria that it adopts and implements. As demonstrated by the agency's ranking of the criteria, the agency recognizes that some criteria are of more significant than others. Thus, the agency seeks comments on the possibility of weighting the criteria so that implementation of the more important ones would mean that a State would receive a larger incentive grant. Finally, the agency requests comments on whether it should establish an upper limit on the number of criteria a State has to implement in order to be eligible for a full 20 percent supplemental grant.

The second alternative on which the agency seeks comments would require States to implement all of those criteria that the Governor of the State has the current authority to implement without requiring the concurrence of another branch of the State government. The agency believes that requiring a State to implement those criteria which it is administratively possible for the Governor to implement is consistent with Congress's concern about States fully implementing existing programs or authority. In instances where a Governor already has existing, but unused, authority to take an action such as establishing a State Task Force on alcohol traffic safety, the agency believes that the authority should be exercised before a State can be eligible for a supplemental grant. In instances where the administrative authority already exists to adopt a criterion, States can implement a program in a minimal time.

The agency recognizes that there may be variations between States in the number of criteria that it is administratively possible to implement. Thus, the agency will accept a State's certification of the number of criteria that it is administratively possible to implement solely on the basis of the Governor's authority.

Under this approach, in addition to taking those actions which can be administratively implemented, a State would also be required to implement a certain number of additional criteria to be eligible for additional supplemental grant funding. For each succeeding year additional criteria would be required as well. In meeting this eligibility requirement, States would have the flexibility of determining which specific criteria to implement.

The agency specifically requests comments on how the appropriate number of additional criteria might be established, relatively or absolutely.

The agency recognizes that in several States, either the legislature or the Governor, or both have recently taken action that would under this rule constitute implementation of a criterion, e.g., raising the drinking age or appointing a task force. On the other hand, it appears to have been the primary intent of the Congress to induce future action through the new program. The agency believes that the phenomenon of momentum and the need to capitalize on very recent widespread attention to the issue makes it unreasonable not to recognize very recent such efforts in determining eligibility. The agency thus proposes to recognize such actions as qualifying implementation of the criteria where such has taken place either in the legislative session current at the time of enactment of this Act (Pub. L. 97-364, October 25, 1982) or during the previous legislative session of the State.

To summarize, under each alternative, the agency is proposing that in order for a State to qualify for a supplemental grant in subsequent years, it must adopt and implement additional supplemental

criteria, and demonstrate enhanced performance in criteria adopted in prior years. The key to subsequent grants is progress towards achieving program goals and objective as outlined in the State's three year Alcohol Highway Safety Plan. The effectiveness of existing alcohol highway safety programs should rise each year in terms of improved performance, the public's perception of risk, system improvements, etc.

The agency has tentatively decided against creation of a system that would recognize attempted, but not actual, implementation of a criteria. The most frequent example suggested by commenters was introducing, but not passing, legislation to set the drinking age at 21. The Act provides that the agency is to award supplemental grants to States that "adopt and implement" effective programs to reduce drunk driving. Thus, we construe Congress as intending that States are to be rewarded for taking specific actions, not for merely proposing those actions. The agency does note that a systematic, aggressive program of legislative action and support for such enactment at the State level, and as part of a overall program, could qualify as an indicator of increased overall program support and emphasis, which itself could assist in satisfying other criteria.

1. Raising Drinking Age to 21 for All Alcoholic Beverages. As discussed in the advance notice, research has clearly established that raising the drinking age to 21 for all alcoholic beverage results in both a decrease in the number of alcohol-related crashes and a decrease in the number of alcohol-related fatalities. Raising the drinking age to 21 has been strongly endorsed by the Presidential Commission and the National Transportation Safety Board.

Although the commenters uniformly supported increasing the drinking age to 21, they were concerned about how States that have partially raised their drinking age would be treated. Wisconsin, Rhode Island and New York, for example, urged that States be given credit for incrementally raising their drinking age, e.g., from 18 to 19.

The agency believes that there is an important need for uniformity in the drinking age because of the substantial problems caused by teenagers in border communities who drive to neighboring States with a lower drinking age. The agency further concludes that in view of current State laws and the status of research into age related eligibility requirements, the strongly preferred uniform age is 21 years for all alcoholic beverages.

The agency has thus tentatively concluded that States should only be permitted to apply this criterion toward qualification for a supplemental grant if they enacted, whether or not fully implemented, legislation which would immediately or over limited period of time, (e.g. not to exceed three years) raise the drinking age to 21 for all alcoholic beverages. The agency is concerned that rewarding partial compliance would lessen the incentive further to move toward full compliance.

2. Designation of State Alcohol Highway Safety Coordinator. States generally supported the designation of a single individual as responsible for the coordination of a State's alcohol traffic safety program. The California Highway Patrol, however, objected that setting such a position would require "an entirely new bureaucracy." New York's Division of Alcoholism and Alcohol Abuse noted that because planning requires the integration of a number of disciplines and agencies, a group representing each of those disciplines should participate in and be responsible for program coordination.

Current experience in several States shows that designation of a single program coordinator does not require the establishment of an entirely new bureaucracy. NHTSA recognizes that people from many different disciplines must be consulted in order to successfully coordinate a State-wide program and that a panel or task force is an appropriate way to help coordinate the entire program. However, the agency still believes that it is important that a single individual be designated as overall coordinator to ensure all appropriate agencies are fully involved in the drunk driver control system.

3. Rehabilitation and Treatment. A substantial number of the commenters, such as the National Council on Alcoholism and State alcohol treatment agencies, urged the agency to require the use of rehabilitation and treatment as one of the supplemental criteria. They noted, and the agency fully recognizes, that rehabilitation and treatment are a necessary adjunct to an effective drunk driver control system.

In the advance notice, the agency expressed its concern about the need for uniform standards and procedures for creating and operating the program. Based upon an agency-funded demonstration project, the agency proposed that the program be at least one year in length. A number of commenters requested that a minimum time not be set, because of the variability in how different people respond to treatment. To provide States with increased flexibility the agency has decided not to propose a specific minimum time for a treatment program. It is important to note that the only treatment program for problem drinkers that has, in the agency's judgment, been statistically *proven* to be effective in reducing recidivism on a general basis was the comprehensive DWI Offender Treatment Project in Sacramento, California, where long term treatment (1 year) and follow-up (2 years) was required. The agency is concerned about the need for some State oversight of such programs to ensure that they are effectively planned and operated. The agency therefore proposes that each State set minimum standards for rehabilitation and treatment programs.

States can demonstrate compliance with this criterion by providing the agency with the law or regulations requiring or authorizing the treatment referral program along with information on the types and duration of their rehabilitation and treatment programs and a summary of their uniform standards and procedures for creating and operating their programs.

4. State and Local Task Forces. In its interim report, the Presidential Commission noted that:

> The development of State and local Task Forces has proved to be central to the development of more effective local and State responses to drunk driving. These Task Forces provide a mechanism to bring together governmental officials and non-governmental leaders in an effort to increase public awareness of the problem, develop more effective legal responses to it, and to develop governmental and non-governmental programs of drunk driving countermeasures.

Several States, such as California and North Carolina, noted in their comments the valuable role of Task Forces in examining new approaches for reducing drunk driving. NHTSA, therefore, proposes that creation of State and local Task Forces become one of the supplemental grant criteria. The agency has developed guidelines to assist States and local communities to establish Task Forces. Those guidelines are found in the agency's publication "Task Force Implementation Guidelines for the Development of State and Community Alcohol Highway Safety Programs." As a minimum a State should have a Task Force and active plans should be underway to encourage and assist in the establishment of county, city, or Regional Task Forces.

5. Statewide Driver Record System. Commenters, such as AAA and Citizens for Safe Drivers Against Drunk Drivers and Other Chronic Offenders (CSD), supported the need for an up-to-date,

readily accessible system of driver records to identify repeat offenders. The advance notice sought comments on a proposed requirement that the system be operated so that conviction information is actually recorded in the system within 30 days of conviction, license sanction or the completion of the appeals process. Mississippi, the only State to directly address the issue of timeliness, said that 90 days is needed to process conviction and license actions. The agency needs additional information from States on the current and potential capabilities of their records system before it can resolve the issue of what, if any, requirements it should set on timeliness. The agency specifically requests States to address this issue in their comments on this notice but proposes at this time to retain the 30-day requirement originally proposed.

The agency also sought comments on public access to the driver records. CSD strongly supported full public disclosure. Illinois recommended that statistical information on DWI charges that have been subsequently reduced should be part of the public record, but that the public should not have access to specific information on individual cases. The New York Division of Alcoholism and Alcohol Abuse stated its concerns about whether information would be disclosed that indicates that an individual is receiving or has received treatment for alcoholism. It said that such disclosures could be a violation of state law and Department of Health and Human Services' confidentiality regulations. The agency requests additional commenters to address the issue of public accessibility and the effect of State privacy laws on accessibility.

The Presidential Commission's Interim Report and CSD raised several important points concerning the operation of record systems, including the use of a uniform traffic ticket and participation in the National Driver Register. The agency is proposing to adopt those recommendations as a part of supplemental criterion No. 14.

One of CSD's recommendations, however, is crucial to the operation of the records system. CSD noted that some States expunge their records within two or three years, which makes it difficult to identify repeat offenders. The agency concurs with this concern, and therefore, proposes that States retain their records for a period of five years in order to meet the driver record supplemental criterion; such a requirement is consistent with the agency's proposed definition of "repeat offender" for the purposes of the basic grant, and with the agency's understanding of the intent of the Congress in enacting the National Driver Register Act, Title II of Pub. L. 97-364, signed by the President on October 26, 1982.

6. Locally Coordinated Programs. As emphasized in the advance notice, the agency believes that drunk driving has become a national problem by virtue of being first a local problem in every locality. The success of any alcohol traffic safety effort is dependent upon local communities recognizing, understanding and accepting the responsibility for solving this problem.

While endorsing the concept of locally-coordinated programs, a number of States, such as North Carolina and Connecticut, said that implementation of the local programs will be costly. A number of States pointed out statutory and administrative problems they have in implementing local programs. California, for example, said that currently it has no statutory provisions to allow fines to be funneled back to local programs.

The agency recognizes that implementation of programs that are locally coordinated may incur some increased costs and may necessitate enactment of new legislation. However, a number of States, such as New York and Virginia, have found that the costs of a local coordinator are minimal when compared to overall system improvements. These programs can be established by local jurisdictions and need not be restricted to a specific size community or region. The agency would prefer that communities decide the geographic area to be involved in a locally coordinated program. It can be a city, county or any combination of cities, towns or counties forming a regional alcohol traffic safety community. As discussed in more detail later in this notice, the agency believes that these programs can eventually become self-sufficient. Because of the overriding importance in having the primary drunk driver effort at the local level, the agency proposes to adopt the requirement for locally coordinated programs as one of the final supplemental criteria.

7. Prevention and Education. The commenters uniformly supported making a prevention and education program designed to change the societal norm relative to drunk driving a supplemental criterion. Many commenters discussed the need for a long-term program aimed at the pre-driver and young driver population. The agency agrees that the long-term success of any alcohol safety effort is, in large part, dependent upon establishing responsible attitudes toward alcohol use and driving among today's youth and, therefore, proposes to adopt prevention and education as one of the supplemental criteria.

States can demonstrate compliance with such a requirement by providing a brief description of their prevention and education program and discussing how it relates to changing societal attitudes and norms against drunk driving. This should include a comprehensive kindergarten through twelfth grade education program as well as involvement of the private sector groups and parents. In particular, a State should provide information on its youth alcohol traffic safety programs.

8. Screening. The use of pre-sentence screening was strongly supported by several commenters, including Oklahoma and AAA. New York agreed with the agency's proposal that the courts be given the authority to order such screening, but the use of the screening not be mandatory.

Florida suggested that the emphasis be placed on the use of screening and not on the pre-sentence timing of the screening. Florida noted that it currently uses screening as a part of its probation procedures and as a link to its education and treatment programs.

The agency agrees with Florida that the importance of the screening is to identify problem drinkers and to see that they receive appropriate education and rehabilitation. The agency proposes to adopt as a supplemental criterion the requirement that States have a screening procedure. States could demonstrate compliance with this criterion by submitting a copy of the law authorizing screening and providing a brief description of the screening process. The agency requests further comment on whether only pre-sentence screening should be included in this criterion.

9. Evaluation Systems. Individual alcohol countermeasures and the system as a whole require continual review and scrutiny in order to determine which of these measures work and which do not work. In order for States to be able to evaluate the progress and impact of their comprehensive alcohol programs, evaluation systems should be designed and implemented to measure performance of their counter-measures and overall impact of the program. Progress and impact should be made known and available to State and local governments, legislative committees, and citizen groups.

Minimum requirements for qualification of the system would be the demonstration of an adequate State-

wide data reporting collection system which could collect pertinent data elements, such as crashes, arrests, convictions, etc. In addition, an evaluation section as part of the Alcohol Safety Plan would be required that would specify the kind of data to be collected, and the appropriate disseminations of the data in terms of reports and analysis.

10. Self-Sufficiency. Although the advance notice discussed the importance of State and local program becoming self-sufficient, self-sufficiency was not proposed as a separate criterion. The agency believes that because of Congress' intent that the section 408 incentive grants be used as "seed money", more emphasis should be placed on State and local programs becoming self-sufficient.

As emphasized in the advance notice, the agency believes that making the drunk drivers who create the problem pay for its solution is sound policy. The agency recognizes, as stated by several commenters, that legislation may be needed in order to redistribute the offenders' fines, court fees and education and treatment program tuition back to State and local agencies to pay for the system. However, enactment of such legislation is one way of assisting those programs to become financially self-sufficient and self-sustaining.

The agency, therefore, proposes to adopt as one of the criteria a requirement that States take the necessary steps to ensure that their alcohol traffic safety programs will become self-sufficient. States can demonstrate compliance by providing a plan how they intend to make their programs self-sufficient. Specific progress toward implementation of the plan must be shown in future years to continue to claim this as a supplemental criterion.

11. Use of Roadside Sobriety Checks. There was a sharp difference of opinion among commenters on the use of roadside checks to detect drunk drivers. Both the California Highway Patrol and AAA opposed their use on constitutional grounds. Mississippi said that it widely uses them as an integral part of its alcohol safety program, and U.S. Representative Barnes, one of the sponsors of the Act, expressed his strong support for the use of roadside sobriety checks.

The agency believes that the selective use of reasonable roadside checks can be supported on constitutional grounds. An important effect of the checks is to increase the public's perception of the risk of being caught for drunk driving.

The agency proposes to adopt the use of roadside checks as one of the supplemental criteria in the final rule. States can demonstrate compliance with this criterion by providing information on the frequency and area where roadside checks are being used, the purpose of those checks and a copy of their regulation, law, or policy authorizing the use of roadside sobriety checks.

12. Citizen Reporting. In its Interim Report, the Presidential Commission recommended that states encourage citizens to report drunken drivers to the police. The Commission said that:

> This program of citizen involvement increases the public's perceived and actual risk of apprehension and adds to general deterrence. In Nebraska from June 1981 to May 1982, for example, 2,836 suspected drunk drivers were reported to the police and, as a result, police intercepted 1,827 potentially drunk drivers and arrested 1,428. Similar results have been achieved in several other States.

The agency believes that citizen reporting programs can contribute to the overall success of an alcohol traffic safety program by enhancing deterrence and therefore proposes to make such a program one of the supplemental criteria. States can demonstrate compliance by submitting a description of its citizen reporting guidelines or policy and the degree of participation, e.g., number of citizens reporting and number of arrests resulting therefrom.

13. Enactment of a BAC of 0.08 Percent as Presumptive Evidence. In the advance notice, the agency proposed that States enact a law making a .05 percent BAC presumptive evidence of driving under the influence of alcohol. Although Connecticut supported the proposal, several commenters argued that a BAC of 0.05 was too low a level at which to create a presumption that a driver is impaired.

The California Highway patrol said that there is "no general agreement among authorities that a BAC of 0.05 constitutes 'under the influence' or impairment." Wisconsin urged the agency to consider establishing a BAC of 0.08 percent as presumptive evidence of impairment.

The agency believes that the setting of a presumptive level of impairment can assist enforcement officials in making arrests and obtaining convictions where impairment is evident from the driving action in a particular case. Although there is uncertainty surrounding whether a BAC of 0.05 percent would constitute impairment for all drivers, the agency believes that there is sufficient research to show that a BAC 0.08 percent represents a level which can commonly produce driver impairment or physical effects which lead to conduct properly chargeable as driving under the influence. At this time, and for this purpose, the agency therefore proposes to retain the level of 0.05 percent as requisite for satisfaction of this criterion. States can demonstrate compliance by providing a copy of the applicable law.

14. Uniform Licensing Procedures. In its Interim Report, the Presidential Commission recommended that States fully participate in the National Driver Register and the Driver's License Compact and use a one-license/one-record policy. The Commission said that "Cooperation between States in sharing information on driver licensing and violations in order to stop those with revoked or suspended licenses from becoming licensed in another State is a necessity." Similar suggestions were made by CSD.

The Commission and CSD also suggested the need for a uniform traffic ticketing and disposition procedure. Such a system is needed in order to follow each charge from arrest through prosecution and back to the central State file. It also provides excellent system and financial accountability.

The agency recognizes that it is important to have States share driver licensing suspension and revocation information and therefore is proposing to adopt this suggestion as one of the supplemental criteria. States can demonstrate compliance by providing a copy of the executive order, regulation or law setting up a uniform traffic ticketing system. In addition, States would have to show that they have signed the Driver License Compact and are participating in use of the National Driver Register.

15. Preliminary Breath Tests. Use of preliminary breath tests (PBT's) was supported by a number of States, such as Wisconsin, Connecticut and Mississippi. Several States, including California and Florida, were concerned that use of the PBT's may place too much reliance on the use of the test device and not enough on the arresting officer's observation of the suspect's behavior. Florida also commented that the use of PBT's may encourage drunk drivers to refuse to take an evidential breath test, if they fail the preliminary test.

The agency believes that use of PBT's can contribute to the effectiveness of an alcohol enforcement program. The agency agrees that police officers must be trained in how to identify potentially drunk drivers based on the officer's observations, however, we believe the use of PBT's can complement the officer's observation. Research done by the agency and the experience of the

States, such as Minnesota, have shown that (1) wider use of preliminary breath tests can increase the effectiveness of any alcohol enforcement effort through increases in arrests and an overall lowering of the average BAC of persons arrested for DWI, (2) the PBT's are accepted by and useful to the police, and (3) the PBT devices function accurately and dependably. Twenty States currently have laws authorizing the use of PBT's. The potential problem of suspects refusing to take an evidential breath test can be combated by strengthing the penalties for refusing the test. Since the potential problems raised by the commenters can be solved and the benefits outweigh the efforts of solving these problems, the agency proposes to adopt the use of PBT's as a supplemental criterion.

16. Plea-bargaining. Many commenters, such as AAA, NHSAC, and IACP, suggested limitations on the use of plea-bargaining in alcohol-related driving cases. They pointed out that the principal problem is that an alcohol-related offense may be bargained down to a lesser non-alcohol-related offense, such as reckless driving. Thus, upon subsequent arrest, the offender's driving record might not contain any information to indicate that he or she has committed prior alcohol-related offenses.

Several States have already placed limits on plea-bargaining in alcohol-related traffic cases. California, for example, requires the reason for accepting the bargain to be placed on the public record. In addition, the lesser offense is entered on the driver's record as alcohol-related.

IACP commented that in some jurisdictions, courts can make a finding of probation without judgment. Once the defendant completes the probationary period, the record is expunged and thus no record of an alcohol-related offense would exist, according to IACP.

In its Interim Report, the Presidential Commission also recommended that prosecutors and courts not reduce driving under the influence charges. The Commission said that a charge should be reduced only if the prosecutor states in writing "why the interest of justice uniquely requires a reduction or why the charge cannot be proven beyond a reasonable doubt."

Based on those comments, the agency has decided to propose as a criterion that no charge be reduced or probation without judgment be entered without a written declaration of why the action is in the interest of justice. In addition, the agency proposes that if the charge is reduced, the defendent's driving record must reflect that the reduced charge is alcohol-related. States can demonstrate compliance by providing a copy of the law implementing these provisions.

17. Victim Assistance, Compensation and Impact Statements. The Presidential Commission's Interim Report refers to those injured by drunk drivers as the "forgotten victims of the legal system." The Commission recommended a number of programs to aid those victims. The Commission said that State and local governments should have victim assistance programs, which would inform the victim or the victim's family about the progress and ultimate disposition of the legal case against the drunk driver and provide information on available community services. The Commission also recommended that victim impact statements be required before sentencing in all cases where death or serious injury occurred. CSD also made the same recommendation to the agency.

Finally, the Commission recommended that any person convicted for driving under the influence should pay restitution. The Commission said that, "where feasible, courts should order offenders to pay for property damage, medical expenses, and lost wages."

The agency proposes to make the establishment of programs incorporating the elements recommended by the Commission (victim assistance programs, use of victim impact statement and victim restitution) a separate criterion. States can demonstrate compliance by providing a description of their program.

18. Impoundment. The proposal to impound the vehicle of a person whose driver's license has been suspended or revoked drew considerable comments. The Texas Department of Public Safety strongly supported the use of impoundment at the expense of the owner as a "significant sanction." Numerous other commenters, including NHSAC, Connecticut, Florida and Idaho, sharply questioned whether impoundment was cost-effective, given what they termed the large costs of administering the program. Florida suggested using the alternative of confiscating the vehicle's tags.

Given the successful use of impoundment in Texas and other States, the agency believes that it can be an effective deterrent. At the same time, the agency also recognizes that physical impoundment can create due process and administrative problems. Such problems, however, will commonly arise at the State level, and can be resolved there. To ensure that States who do wish to use this enforcement option may receive Federal assistance, the agency is proposing to include impoundment as a criterion and define impoundment as including the taking of the vehicle license plates or tags.

States can demonstrate compliance with this criterion by providing the agency with a copy of the law authorizing appropriate impoundment or license plate confiscation.

19. Choice of Test. Several States, including Mississippi and Connecticut, supported the proposal to allow the arresting officer the choice of chemical tests. The California Highway Patrol noted that California currently allows the suspected drunk driver to specify which test is to be used. It said that any action "which diminishes individual freedom of choice, without compelling reasons, would not receive legislative or public support."

The agency believes that there is a compelling reason for allowing States to authorize an officer to specify the test to be used and, under controlled circumstances, to require a second test. The use of breath tests is an accurate and appropriate way to determine if a person is driving under the influence of alcohol. Unlike urine and blood tests, however, breath tests do not indicate the presence of drugs other than alcohol. In situations where an officer administers a breath test that gives a negative or very low reading, the agency believes that the officer should have the authority to require the suspect to submit to another chemical test if, and only if, the officer has a reasonable belief that the suspect is impaired because of the use of drugs or drugs and alcohol. To ensure that the suspect will submit to the second test, the agency believes that States should have implied consent laws that make refusal to take the second test result in a license suspension for a greater period of time than for conviction of driving while under the influence.

The agency, therefore, proposes to adopt a supplemental criterion that provides that where State law authorizes the officer to specify not only the first but also the second or subsequent chemical tests to be used, refusal to take any such requested test should result in a license suspension. States can demonstrate compliance by providing copy of the applicable laws.

20. Dram Shop Laws. The Presidential Commission, in its interim report, recommended that States enact or implement dram shop laws. Those laws make dispensers of alcohol liable for injuries that occur when they serve alcohol to an obviously impaired driver and the driver is subsequently involved in a crash. The agency believes that

such a law can effectively motivate people to stop serving drivers who are visibly impaired and thus proposes to make enactment of dram shop laws one of the supplemental criteria. States can demonstrate compliance by providing a copy of the applicable law or regulation.

21. Use of Innovative Programs. In proposing supplemental criteria, the agency has attempted to draw upon its own research and demonstration projects, the interim recommendations of the Presidential Commission and the suggestions of the commenters. A review of the proposed supplemental criteria demonstrates the agency has attempted to provide States with maximum flexibility in designing their own alcohol traffic safety programs.

The agency recognizes that there are other potential countermeasures that have not been developed that may be effective in reducing drunk driving. In addition, there are some countermeasure programs that overlap several of the proposed criteria but are not specifically covered by any of them. For example, Oklahoma suggested the use of bartender education programs as a way to reduce drunk driving. Such a program contains elements of the proposed education and dram shop criteria, but does not fully fall within either of them.

The agency believes that States should have an incentive to develop new, unique, and innovative programs. Therefore, the agency proposes that States can meet this final criterion by using innovative alcohol safety programs that are as potentially effective as any of the programs mandated in the other criteria. This would reward States for experimenting with new programs. To demonstrate compliance, States would provide a description of the program and an explanation of why the State believes the program is as potentially effective as any of the other specified criteria as shown by an impact or administrative evaluation.

General Requirements

The Act requires that in order to be eligible for a basic grant, a State must maintain its aggregate level of funding from non-section 408 funds for existing alcoholic traffic safety programs "at or above the average level of such expenditures in its two fiscal years preceding the date of enactment . . . " The purpose of this requirement is to ensure that States continue to maintain their prior level of expenditures for alcohol safety programs from section 402 and other monies. The new section 408 money would then serve to increase their prior efforts, rather than replace money previously spent on alcohol safety and now diverted elsewhere.

The agency proposal to permit States to select either Federal or State fiscal year in determining the level of expenditures that must be maintained was not opposed by any of the commenters. The agency therefore proposes to adopt that definition of fiscal year in the final rule.

Florida requested the agency to clarify what monies are to be considered in determining the funding base, e.g., should section 406, 154 and Federal Highway Administration 402 monies be included. In determining their prior levels of funding, States are to include any money expended for alcohol safety purposes, regardless of source.

Certification and Award Procedure

There are very few comments on the agency's proposed certification and awards procedures. Those that did comment supported the use of a section 402-like certification. NAGHSR supported the proposal to allow States to submit their alcohol safety plan as an expanded portion of the alcohol section of a State's section 402 Highway Safety Plan. NAGHSR and Oklahoma both supported the use of a so-called "soft match" in determining what States Expenditures are reimbursable under section 408.

Because there were only as few comments on this issue, the agency reproposes the certification and awards procedures set forth in the advance notice and requests States to specifically address the procedures.

The agency also requests comments on an alternative procedure. The purpose of the alternative is to save States from having to prepare unnecessary paperwork by determining a States's eligibility for a grant before a detailed alcohol safety plan is submitted. The alternative procedure would have the following three steps:

1. The State provides information to document and verify its eligibility for the basic and supplemental grant criteria.

2. Upon review by NHTSA, the State would be notified that it is or is not eligible for the grant award based upon the documentation submitted. If eligible for grant award, the State would also be advised of the amount of the grant to be awared subject to receipt and NHTSA formal approval of the State's Alcohol Highway Safety Plan. The Plan must be submitted within a specified period of time (90–120 days) to retain award eligibility.

3. Upon receipt and subsequent approval of the Plan, the grant will be awarded by execution of a Federal-Aid Agreement.

Procedures for Commenting on Proposal

Interested persons are invited to attend the public hearings and/or submit written comments on this proposal. It is requested but not required that 10 copies be submitted.

Anyone who wishes to make an oral statement at the January 11, 1983 public hearings should notify Marian Tomassoni or Joe Jeffrey at the address or telephone number listed at the beginning of this notice no later than seven days before the hearing. Oral statements should be limited to 10 minutes or less. Oral or written clarification on issues raised in the oral statements or in the docket submissions may also be requested by agency representatives conducting the hearing. As time permits, the formal statements may be followed by an open discussion. Written comments to the public docket must be received by January 14, 1983.

The comment period established for this notice is necessarily short in order to meet the February 1, 1983 deadline set by Congress for completion of this rulemaking process.

Comments should not exceed 15 pages in length. Necessary attachments may be added to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise manner.

All comments received before the close of business on January 14, 1983, the comment closing date, will be considered and will be available for examination in the docket at the above address before and after that date.

To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. NHTSA will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all written statements and comments will be placed in Docket 82–18; Notice 4 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. A verbatim transcript of the public hearing will be prepared and

placed in the NHTSA docket as soon as possible after the hearing.

Pursuant to the Paperwork Reduction Act, the agency will seek Office of Management and Budget Approval for any new reporting or recordkeeping requirements adopted in the final rule.

The agency has determined that this rulemaking should be classified as significant under the Department's regulatory policies and procedures. The agency has prepared a regulatory evaluation and placed it in the public docket for this rulemaking. The agency has determined that since this rule will not have an annual impact of $100 million on the economy, it is not a major rule within the meaning of Executive Order 12291.

To develop the benefit estimates, the agency determined the degree to which proposals in the notice are presently being implemented. Estimates of safety benefits were then based on satisfying the criteria in those States that presently are not doing so. The impact of the criteria in one or more of four areas was determined where applicable: (1) Drunk drivers on the road, (2) alcohol-related crashes, (3) DWI arrests, and (4) DWI convictions. The agency quantified benefits in terms of reduced numbers of fatalities, injuries, or accidents where possible. Lack of data, or the nature of the criteria themselves at times, precluded quantifying benefits in every criteria; however, in such cases where quantification of benefits is not possible, the general magnitude of the impact is assessed to the degree possible. In some instances, benefits are estimated for specified levels of safety measure effectiveness in order to gauge the potential of the measure for improving highway safety.

I hereby certify that the requirements that will be established by this rulemaking action will not have a significant economic impact on a substantial number of small entities because the States will be the recipients of any funds awarded under the regulation and, therefore, preparation of an Initial Flexibility Analysis is not necessary.

List of Subjects in 23 CFR Part 1209

Alcohol, Grant programs—Transportation, Highway safety.

In consideration of the foregoing, it is proposed to add a new Part 1209 to Title 23 of the Code of Federal Regulations to read as follows:

PART 1209—INCENTIVE GRANT CRITERIA FOR ALCOHOL TRAFFIC SAFETY PROGRAMS

Sec.

Authority: 23 U.S.C. 408.

§ 1209.1 Scope.

This part establishes criteria, in accordance with 23 U.S.C. 408, for awarding incentive grants to States that implement effective programs to reduce drunk driving.

§ 1209.2 Purpose.

The purpose of this part is to encourage States to adopt and implement alcohol traffic safety programs by legislation or regulations which will significantly reduce crashes resulting from persons driving while under the influence of alcohol. The criteria established are intended to ensure that the State alcohol traffic safety programs for which incentive grants are awarded meet or exceed minimum levels designed to reduce drunk driving.

§ 1209.3 Definitions.

(a) "Imprisonment" means confinement to a jail, minimum security facility or in-patient rehabilitation or treatment center.

(b) "Prompt suspension" means that mandatory driver license suspension takes place, in at least 60 percent of the cases, no later than 30 days after a person is arrested for an alcohol-related driving offense. In addition, the overall average time to suspend a drivers' license can not exceed 45 days.

(c) "Repeat offender" means any person convicted of an alcohol-related traffic offense more than once in five years.

(d) "Suspension" means:

(1) For first offenses—

Alternative A, the temporary debaring of all driving privileges for 90 days.

Alternative B, the temporary debaring of all driving privileges for 30 days and then the use for 60 days of a restricted license permitting a person to drive only for the purposes of going from a residence to or from a place of employment or to and from a mandated alcohol education or treatment program. Such restricted licenses can only be issued in accordance with Statewide published guidelines and in exceptional circumstances specific to the offender.

(2) For Refusal to take a chemical test, first offense, the temporary debaring of all driving privileges for 90 days.

(3) For Second and Subsequent offenses, including the refusal to take a chemical test, the temporary debaring of all driving privileges for one year.

§ 1209.4 General Requirements.

(a) *Certification Requirements.* To qualify for a grant under 23 U.S.C. 408, a State must:

(1) Meet the requirements of § 1209.5 and, if applicable, the requirements of § 1209.6;

(2) Submit a certification to the Director, Office of Alcohol Countermeasures, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590 that (i) it has an alcohol traffic safety program that meets those requirements, (ii) it will use the funds awarded under 23 U.S.C. 408 only for the implementation and enforcement of alcohol traffic safety programs, and (iii) it will maintain its aggregate expenditures from all other sources for its existing alcohol traffic safety programs at or above the average level of such expenditures in fiscal years 1981 and 1982; and

(3) Submit to the agency an alcohol safety plan for one, two or three years, as applicable, that describes the programs the State is implementing in order to be eligible for the grants and provides the necessary information, identified in §§ 1209.5 and 1209.6, to demonstrate that the programs comply with the criteria.

(b) *Limitations on Grants.* A State may receive a grant for up to three fiscal years subject to the following limitations:

(1) The amount received as a basic grant shall not exceed 30 percent of a State's 23 U.S.C. 402 apportionment for fiscal year 1983.

(2) The amount received as a supplemental grant shall not exceed 20 percent of a State's 23 U.S.C. 402 apportionment for fiscal year 1983.

(3) In the first fiscal year the State receives a grant, it shall be reimbursed for up to 75 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408;

(4) In the second fiscal year the State receives a grant, it shall be reimbursed for up to 50 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408; and

(5) In the third fiscal year the State receives a grant, it shall be reimbursed for up to 25 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408.

§ 1209.5 Requirements for a basic grant.

To qualify for a basic incentive grant of 30 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must have in place and implement

or adopt and implement the following requirements:

(a)(1) The prompt suspension, for a period not less than 90 days in the case of a first offender and not less than one year in the case of a repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests, to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer.

(2) To demonstrate compliance, a State shall submit a copy of the law or regulation implementing the mandatory license suspension, information on the number of licenses suspended, the length of the suspension for first-time and repeat offenders and for refusals to take chemical tests and the average number of days it took to suspend the licenses from date of arrest.

(b)(1) A mandatory sentence, which is not subject to suspension or probation, of imprisonment for not less than 48 consecutive hours or community service for not less than 10 days, for any person convicted of driving while intoxicated more than once in a five year period.

(2) To demonstrate compliance a State shall submit a copy of its law adopting this requirement and data on the number of people convicted of DWI more than once in any five years and the sentences for those persons.

(c)(1) Establishment of 0.10 percent blood alcohol concentration (BAC) as sufficient evidence for finding that a person driving a motor vehicle is intoxicated.

(2) To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(d)(1) Increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

(2) To demonstrate compliance, a State shall submit data showing that it has increased its enforcement and public information efforts.

§ 1209.6 Requirements for a supplement grant.

[The two alternative sets of proposed requirements for a supplemental grant are discussed in the preamble of this notice.] The twenty-one criteria proposed by the agency are as follows:

(a) Establishment of 21 years of age as the minimum age for drinking any alcoholic beverages. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(b) Designation of a single State official as the coordinator for the alcohol highway safety program in the State. To demonstrate compliance, a State shall submit information identifying the official who has been designated as the State coordinator and the extent of the coordinator's authority.

(c) Rehabilitation and treatment programs for persons arrested and convicted of alcohol-related traffic offenses. To demonstrate compliance, a State shall submit a copy of its law or regulation adopting this requirement.

(d) Establishment of State and local Task Forces of governmental and non-governmental leaders to increase awareness of the problem, to more effectively apply drunk driving laws and to involve governmental and private sector leaders in programs attacking the drunk driving problem. To demonstrate compliance a State shall submit a copy of the executive order, regulation, or law setting up the task force and a description of planned activities to assist and encourage the establishement of city, county or regional Task Forces.

(e) A Statewide driver record system readily accessible to the courts and the public which can identify drivers repeatedly convicted of drunk driving. To demonstrate compliance, a State shall submit a description of its record system discussing its accessibility to prosecutors, the courts and the public and providing data on the time required to enter DWI convictions into the system.

(f) Establishment in each major political subdivision of a locally coordinated alcohol traffic safety program, which involves enforcement, adjudication, licensing, public information, education, prevention, rehabilitation and treatment and management and program evaluation. To demonstrate compliance, a State shall submit a description of the number, type and percentage of the State population covered by such local programs.

(g) Prevention and long-term education programs on drunk driving. To demonstrate compliance, a State shall submit a description of its prevention and education program, discussing how it is related to changing societal attitudes and norms against drunk driving with particular attention to the implementation of a comprehensive youth alcohol traffic safety program.

(h) Authorization for courts to conduct screenings of convicted drunk dirvers. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement and a brief description of its screening process.

(i) Development and implementation of State-wide evaluation system to assure program quality and effectiveness. To demonstrate compliance, a State shall provide a copy of the executive order, regulation or law setting up the evaluation program and a copy of the evaluation plan.

(j) Establishment of a plan for acheiving self-sufficiency for the State's total alcohol traffic safety program. To demonstrate compliance, a State shall provide a copy of the plan. Specific progress toward achieving this criterion must be shown in subsequent years.

(k) Use of roadside sobriety checks as part of a comprehensive alcohol safety enforcement program. To demonstrate compliance, a State shall submit data on the frequency and area within a State where roadside checks are being used, purpose of the checks and a copy of its regulation or policy authorizing the use of roadside checks.

(l) Establishment of programs to encourage citizen reporting of alcohol-related traffic offenses to the police. To demonstrate compliance, a State shall submit a copy of its citizen reporting guidelines or policy and data on the degree of citizen participation, e.g., number of citizen reports and the number of related arrests.

(m) Establishment of a 0.08 percent BAC as presumptive evidence of driving while under the influence of alcohol. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(n) Adoption of a one-license/one-record policy. In addition, the State shall fully participate in the National Driver Register and the Driver License Compact. To demonstrate compliance, a State shall submit a copy of the order, regulation or law showing the State has signed the Driver License Compact and has adopted a one-license/one-record policy, and is participating in the National Driver Register.

(o) Authorization for the use of a preliminary breath test where there is probable cause to suspect a driver is impaired. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(p) Elimination of plea-bargaining to non-alcohol-related offenses in the prosecution of alcohol-related traffic offenses. To demonstrate compliance, a

State shall submit a copy of its law or court guidelines adopting this requirement.

(q) Provide victim assistance and victim restitution programs and require the use of victim impact statement prior to sentencing in all cases where death or serious injury results from an alcohol-related traffic offense. To demonstrate compliance, a State shall submit a copy of its law or court guidelines adopting this requirement.

(r) Mandatory impoundment or confiscation of license plate/tags of any vehicle operated by an individual whose license has been suspended or revoked for an alcohol-related offense. To demonstrate compliance a State shall submit a copy of its law adopting this requirement.

(s) Enactment of legislation or regulations authorizing the arresting officer to determine the type of chemical test to be used to measure intoxication and to authorize the arresting officer to require a second chemical test where the arresting officer has a reasonable belief that the driver is under the influence of drugs. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(t) Enactment of dram shop laws. To demonstrate compliance, a State shall submit a copy of its law or regulation adopting this requirement.

(u) Use of innovative programs to demonstrate compliance, a State shall submit a description of its program and an explanation showing that the program will be as effective as any of the programs adopted to comply with the other supplemental criteria.

§ 1209.7 Award procedures.

For each Federal fiscal year, grants under 23 U.S.C. 408 shall be made to eligible States upon submission of the alcohol safety plan and certification required by § 1209.4. Such grants shall be made until all eligible States have received a grant or until there are insufficient funds to award a full grant to a State. Time of submission shall be determined by the postmark for certifications delivered through the mail and by stamped receipt for certifications delivered in person.

(Sec. 101, Pub. L. 97-364; 96 Stat. 1738 [23 U.S.C. 408]; delegation of authority at 49 CFR 1.50)

Issued on December 30, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 83-310 Filed 1-3-83; 12:39 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-104-81]

Time for Determination of Relationship of Persons Transferring Depreciable Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document would amend the regulations under section 1239 to clarify the disallows capital gains treatment on the sale or exchange of depreciable property between related taxpayers as defined in section 1239(b). This section is designed to prevent the immediate payment of a capital gains tax for the elimination over a period of years of income taxes on an equivalent amount of ordinary income as a result of the additional depreciation deduction allowable on the increased basis of the transferred property. The proposed amendment to the regulations would provide the public with guidance as to the proper time for determining relatedness under section 1239.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 7, 1983. This amendment is proposed to be effective for transfers after January 5, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-104-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George T. Magnatta of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459)

SUPPLEMENTARY INFORMATION:

Background

This document contains a proposed amendment of the Income Tax Regulations (26 CFR Part 1) under section 1239 of the Internal Revenue Code of 1954. This amendment does not reflect amendments to section 1239 made by the Installment Sales Revision Act of 1980 (Pub. L. 96-471; 94 Stat. 2225) (relating to the definition of "related persons"). This amendment is proposed to clarify the existing regulations and is to be issued under the authority contained in section 7805 of the Internal Revenue Code (68A Stat. 917).

Explanation of Provisions

Section 1239 disallows capital gains treatment on the sale or exchange of depreciable property between related taxpayers as defined in section 1239(b). This section is designed to prevent the immediate payment of a capital gains tax for the elimination over a period of years of income taxes on an equivalent amount of ordinary income as a result of the additional depreciation deduction allowable on the increased basis of the transferred property.

A taxpayer and an entity are considered related if there is 80-percent ownership before or immediately after the sale or exchange of depreciable property. Where there is a sale or exchange between two entities, there is relatedness if a shareholder has 80-percent ownership (either actual or constructive ownership) of the transferor before the sale or exchange of depreciable property and the same shareholder has 80-percent ownership (either actual or constructive ownership) of the transferee immediately after the sale or exchange of depreciable property.

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 are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed amendments do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Non-Application of Executive Order 12291

The Treasury Department has determined that this proposed regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven 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 held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of this proposed regulation is George T. Magnatta of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation both on matters of substance and style.

List of Subjects in 26 CFR 1.1201–1.1252–2

Income taxes, Capital gains and losses, Recapture.

Proposed amendments to the regulations

PART 1—[AMENDED]

The proposed amendments to 26 CFR Part 1 are as follows:

Section 1.1239–1 is amended by redesignating paragraph (c)(3) as (c)(5) and inserting in lieu thereof new paragraphs (c)(3) and (c)(4). New paragraphs (c)(3) and (c)(4) read as follows:

§ 1.1239–1 Gain from sale or exchange of depreciable property between certain related taxpayers after October 4, 1976.

* * * * *

(c) *Rules of construction.* * * *

(3) *Relationship determination—taxpayer and an 80-percent owned entity.* (i) For purposes of paragraph (b)(2) of this section, the relationship of the transferor and transferee is determined before or immediately after the sale or exchange of depreciable property.

(ii) The provisions of (c)(3)(i) of this section may be illustrated by the following example:

Example. A owns 60 percent in value of the outstanding stock of M Corporation. On June 1, 1983, A enters into a binding contract to purchase on August 1, 1983, an additional 21 percent in value of the outstanding stock of M Corporation. On July 1, 1983, A sells to M Corporation property that is of a character which is subject to the allowance for depreciation in the hands of M Corporation. The additional shares that A is obligated to purchase are considered as owned by A before the sale for purposes of determining whether A and M Corporation are related. Thus, A is considered to own 80 percent or more of M Corporation before the sale. Therefore, the provisions of section 1239 apply, and A's gain recognized on the sale is treated as ordinary income.

(4) *Relationship determination—two 80-percent owned entities.* For purposes of paragraph (b)(3) of this section, two entities are related if the same shareholder both owns 80 percent or more in value of the stock of the transferor before the sale or exchange of depreciable property and owns 80 percent or more in value of the stock of the transferee immediately after the sale or exchange of depreciable property.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

December 27, 1982.

[FR Doc. 83-257 Filed 1-5-83; 8:15 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[LR-228-76]

Tax Treatment of Capital Gains for Purpose of the Foreign Tax Credit Limitation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations prescribing rules for the tax treatment of capital gains for purposes of the foreign tax credit limitation with respect to changes made by the Tax Reform Act of 1976 and the Revenue Act of 1978.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 7, 1983. The regulations in general are proposed to apply for taxable years beginning after December 31, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–228–76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 904(b) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to sections 1031(a), 1031(c), 1034(a) and 1034(b) of the Tax Reform Act of 1976 and section 403(c)(4) (A) and (B) and section 701(u)(2) (A), (B), (C), and (D), and (u)(3) (A) and (B) of the Revenue Act of 1978 and 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).

Explanation of Provisions

Prior to the Tax Reform Act of 1976 a number of problems existed in the treatment of capital gains for purposes of computing the foreign tax credit limitation. Since there were no statutory rules for netting capital gains and losses where some gains were U.S. source and other gains were foreign source, (and where losses were allocable or apportionable to gains from different sources), foreign source capital gains were generally included as foreign source income in the numerator of the foreign tax credit limitation fraction without any reduction for capital losses allocable or apportionable to U.S. sources. This resulted in a distortion where a taxpayer had capital losses allocable or apportionable to U.S. sources which reduced foreign source capital gains since the amount of foreign tax credits which a taxpayer could use was increased without a corresponding increase in U.S. tax liability. In addition, there was no statutory requirement that the foreign tax credit limitation be adjusted to reflect the lower tax rate paid by corporations with respect to long-term capital gains. This likewise resulted in a distortion of the foreign tax credit limitation in cases where there were net capital gains.

Section 904(b)(2)(A) (i) and (ii) of the Internal Revenue Code of 1954 adjusts the numerator and denominator of the foreign tax credit limitation fraction in order to correct the distortions which existed under prior law. Section 1.904(b)–1 deals with corporations and § 1.904(b)–2 with other taxpayers.

Paragraph (a)(1) of section 1.904(b)–1 provides that taxable income from sources without the United States, *i.e.*, the numerator of the foreign tax credit limitation fraction, shall include foreign source capital gain net income reduced by the rate differential portion of foreign source net capital gain. Capital gain net income is defined in section 1222(9) of the Code as the excess of gains (both long and short-term) over losses (both long and short-term) from the sale or exchange of capital assets. Foreign source capital gain net income is defined as the lesser of capital gain net income from sources without the United States or capital gain net income from all sources. The definition of foreign source capital gain net income takes into account the effect of capital losses allocable or apportionable to U.S. sources which reduce foreign source capital gains, since, in such cases, capital gain net income from all sources would be less than capital gain net income from sources without the United States, and that smaller figure would be included in the numerator of the foreign tax credit limitation fraction. No such adjustment is required in computing the entire taxable income in the

denominator of the foreign tax credit limitation fraction and, therefore, the capital gain net income from all sources is used. Where capital losses allocable or apportionable to foreign sources reduce U.S. source capital gains, an adjustment is also made in the numerator. This adjustment will be explained in the discussion relating to paragraph (a)(3) of § 1.904(b)–1. With respect to the allocation and apportionment of losses, the rules under § 1.861–8(e)(7) dealing with the allocation and apportionment of losses are to be applied with respect to the sale, exchange, or other disposition of property.

Since capital gain net income includes long-term capital gains which are taxed at a reduced rate, some adjustment must be made to reflect this reduced rate. This is accomplished by reducing the numerator by the rate differential portion of foreign source net capital gain. The term "rate differential portion" was added by the Revenue Act of 1978 and is defined in paragraph (b)(5) of § 1.904(b)–1. The term reflects the reduced rate of taxation of long-term capital gains. The term "net capital gain" is defined in section 1222(11) and represents those gains which are taxed at a reduced rate, *i.e.*, net long-term capital gains minus net short-term capital losses. The term "foreign source net capital gain" is defined in paragraph (b)(4) as the lesser of net capital gain from sources without the United States or net capital gain from all sources. This definition parallels that of foreign source capital gain net income and reflects the necessary adjustment in the numerator to take into account capital losses allocable or apportionable to U.S. sources which offset foreign source long-term capital gains.

The computation of the entire taxable income under paragraph (a)(2) of § 1.904(b)–1, *i.e.*, the denominator of the foreign tax credit limitation fraction, includes capital gain net income reduced by the rate differential portion of net capital gain. Since in computing the capital gain net income from all sources, the capital gains and the capital losses allocable or apportionable thereto from United States and foreign sources will net out, the only adjustment required is to take into account the lower tax rate with respect to net capital gain.

With respect to the definitions of capital gain net income and net capital gain, the proposed regulation takes the position that the terms "capital gain net income" and "net capital gain" include net section 1231 gain and that those terms do not include any gain from the sale or exchange of a capital asset which is not treated as capital gain.

Section 904(b)(2)(A)(iii) deals with the situation in which capital losses allocable or apportionable to sources without United States offset U.S. source capital gains. In such a case, paragraph (a)(3)(i) of § 1.904(b)–1 requires that a reduction be made in the numerator of the foreign tax credit limitation fraction. The required reduction is the amount by which the net capital loss allocable or apportionable to sources without the United States offsets capital gain net income from sources within the United States. In addition, to the extent that the capital gain net income which is offset consists of net capital gain, a further adjustment is made under paragraph (a)(3)(ii) of § 1.904(b)–1. The is accomplished by reducing the adjustment in paragraph (a)(3)(i) (*i.e.*, by increasing the numerator) by the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain (from all sources). The rationale for the adjustment under paragraph (a)(3)(ii) of § 1.904(b)–1 is that to the extent capital losses allocable or apportionable to foreign sources reduce U.S. source long-term capital gains, an amount taxed at less than a full rate is eliminated from the denominator and an adjustment to reflect this should be made in the numerator.

Section 1.904(b)–2 sets forth rules dealing with noncorporate taxpayers. These rules follow the rules set forth in § 1.904(b)–1 for corporate taxpayers with certain modifications including substituting for the rate differential amount the applicable percentage specified in section 1202(a) as an adjustment with respect to net capital gain. Paragraph (b) of § 1.904(b)–2 defines the term "net capital loss" as it applies to noncorporate taxpayers and paragraph (c) of this section illustrates the application of section 904(b) to noncorporate taxpayers in a manner similar to paragraph (c) of § 1.904(b)–1 with respect to corporate taxpayers.

Section 1.904(b)–3 deals with special source rules relating to the sale of personal property. The general rule is that gain from the sale of personal property without the United States gives rise to U.S. source income for purposes of computing the foreign tax credit limitation fraction. There is a general exception if the gain (computed under the Internal Revenue Code) is subject to an income, war profits, or excess profits tax of the foreign country or possession of the United States in which the sale or exchange occurs (including a withholding tax) and the rate of tax applicable to such gain is 10 percent or more of the gain from the sale or exchange. The provision was added to prevent taxpayers from selling their assets abroad primarily to utilize any excess foreign tax credits which they have available from other activities. The 10 percent exception was included because it was believed that if the foreign government significantly taxes a sale, such sale probably did not take place in that country purely for tax purposes. (S. Rept. No. 94–938, 94th Cong., 2d Sess. 245 (1976))

For purposes of § 1.904(b)–3, gain from the sale or exchange of capital assets is defined to include net section 1231 gain (as provided for under section 904(b)(3)(E)) and to exclude gain which is not otherwise treated as capital gain even though it arises from the sale or exchange of a capital asset.

In addition, even if the foreign country or possession in which the sale or exchange occurred did not impose a tax of 10 percent or more, three additional exceptions are provided. These special exceptions are provided under paragraph (b) of § 1.904(b)–3. The first exception is in the case of an individual, if the property is sold or exchanged within the country or possession of the individual's residence. The second is in the case of a corporation, if the property is stock in a second corporation and is sold in a country or possession in which the second corporation derived more than 50 percent of its gross income for a specific 3-year period (or shorter period based on the corporation's existence). The third exception applies to corporate and noncorporate taxpayers and exempts the sale of personal property other than stock if it is sold or exchanged in a country or possession in which the property is used in a trade business of the taxpayer or in which the taxpayer derived more than 50 percent of its gross income for a specific 3-year period (or shorter period based on the taxpayer's existence).

Paragraph (d) of § 1.904(b)–3 provides that the exceptions under paragraphs (b) and (c) apply only for purposes of applying the special sources rules under paragraph (a), and that the general source rules under sections 861, 862, and 863 and the regulations thereunder are applicable in making the initial determination as to whether gain is from foreign or U.S. sources and in determining where gross income is derived for purposes of the exceptions provided by paragraphs (b)(2) and (b)(3). Paragraph (e) provides a special rule with respect to gain from the liquidation of foreign corporations to which Part II of subchapter C applies. Paragraph (f)

applies the rule under § 1.871–2(b) in defining the term "residence" for purposes of paragraph (b)(1) of § 1.904(b)–3. Paragraph (g) provides the method for determining the rate applicable to the gain on the sale of property for purposes of satisfying the general exception under paragraph (c). While the amount of the gain is computed under the Internal Revenue Code, the tax rate is to be determined by applying the laws of the foreign country and treating the gain as the only transaction occurring during the taxable year. Therefore, unrelated gains and losses are not taken into consideration in determining the tax rate imposed on the gain. However, if substantially all the assets of a trade or business are sold within any country within any taxable year, the gains and losses from the sale of such assets shall be netted before applying the source rule. In determining whether a foreign country imposes a 10 percent or greater tax on the gain, any reduction in tax rate under a treaty provisions is taken into consideration.

Paragraph (h) clarifies the application of the source rules (in determining whether the exceptions under paragraph (b)(2) and (b)(3) apply) in the case of dividends received by a foreign shareholder from a foreign corporation. The rule adopted in paragraph (h) is similar to the rule under paragraph (h) of § 1.902–1, which sources dividends paid by a foreign corporation.

Section 1.904(b)–4 contains the effective date. The general effective date of the amendments is for taxable years beginning after December 31, 1975. However, with respect to the sale of personal property, the special source rules described in § 1.904(b)–3 apply to sales and exchanges made after November 12, 1975.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven 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 held, notice of the time and place will be published in the **Federal Register.**

Regulatory Flexibility Act and Executive Order 12291

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). The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291.

Drafting Information

The principal author of this regulation is Jacob Feldman of the Legislation and Regulations Division of the Office of Chief Counsel. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.861–1 Through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

Proposed Amendments to the Regulations

PART 1—[AMENDED]

The proposed amendments to 26 CFR Part 1 are as follows:

The following sections are added immediately following § 1.904–5 to read as set forth below:

§ 1.904(b)–1 Treatment of capital gains for corporations.

(a) *In general.* For purposes of computing the foreign tax credit limitation of corporations, the following rules apply:

(1) *Inclusion in foreign source taxable income.* The taxable income of a corporation from sources without the United States includes gain from the sale or exchange of capital assets only in an amount equal to—

(i) Foreign source capital gain net income (as defined in paragraph (b)(2) of this section), reduced by

(ii) The rate differential portion (as defined in paragraph (b)(5) of this section) of foreign source net capital gain (as defined in paragraph (b)(4) of this section).

(2) *Inclusion in entire taxable income.* The entire taxable income of a corporation includes gain from the sale or exchange of capital assets only in an amount equal to—

(i) Capital gain net income (as defined in paragraph (b)(1) of this section), reduced by

(ii) The rate differential portion of net capital gain (as defined in paragraph (b)(3) of this section).

(3) *Treatment of capital losses.* The taxable income of a corporation from sources without the United States shall be reduced by an amount equal to—

(i) Any net capital loss (as defined in paragraph (b) (6) of this section) allocable or apportionable to sources without the United States to the extent taken into account in determining capital gain net income for the taxable year, less

(ii) An amount equal to the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain (from all sources).

(b) *Definitions.* For purposes of section 904(b) and §§ 1.904 (b)–1 through (b)–3, the following definitions shall apply:

(1) *Capital gain net income.* The term "capital gain net income" means the excess of the gains from the sales or exchanges of capital assets over the losses from such sales or exchanges. Such term shall include net section 1231 gain, but shall not include gains from the sale or exchange of capital assets to the extent that such gains are not treated as capital gains.

(2) *Foreign source capital gain net income.* The term "foreign source capital gain net income" means the lesser of—

(i) Capital gain net income from sources without the United States, or

(ii) Capital gain net income (from all sources).

(3) *Net capital gain.* The term "net capital gain" means the excess of the net long-term capital gain (including net section 1231 gain) for the taxable year over the net short-term capital loss for such year, but shall not include gains from the sale or exchange of capital assets to the extent that such gains are not treated as capital gains.

(4) *Foreign source net capital gain.* The term "foreign source net capital gain" means the lesser of—

(i) Net capital gain from sources without the United States, or

(ii) Net capital gain (from all sources).

(5) *Rate differential portion.* The term "rate differential portion" of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).

(6) *Net capital loss.* Except as provided in § 1.904(b)–2 (b), the term "net capital loss" means the excess of the losses from sales and exchanges of capital assets over the sum allowed under section 1211. For purposes of paragraph (a) of this section, the term "net capital loss" includes any amounts which are short-term capital losses under section 1212(a). Net capital losses do not include losses from the sales or exchanges of capital assets which are not treated as capital losses under the Internal Revenue Code.

(7) *Allocation and apportionment.* For purposes of this section and §§ 1.904 (b)–2 and (b)–3, the rules under § 1.861–8 (e) (7) with respect to the allocation and apportionment of losses are to be applied with respect to losses on the sale, exchange or other disposition of property.

(8) *Computation of net section 1231 gain.* For purposes of this section and § 1.904(b)–2, the netting of section 1231 gains and losses is to be determined separately with respect to section 1231 gains from sources without the United States (and losses allocable or apportionable thereto) and section 1231 gains from all sources. Section 1231 gains from sources without the United States (and losses allocable or apportionable thereto) and section 1231 gains from sources within the United States (and losses allocable or apportionable thereto) are not to be aggregated for purposes of determining the character of section 1231 gains from sources without the United States.

(c) *Illustrations.* The principles of paragraph (a) of this section may be illustrated by the following examples:

Example (1). Corporation A had the following business taxable income, capital gains and capital losses for 1979:

	In thousands		
	Foreign source	U.S. source	All sources
Business income	$1200	$2000	$3200
Long-term capital gain	300	200	500
Long-term capital loss	0	400	400
Short-term capital gain	100	400	500
Short-term capital loss	200	300	500

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income of A are computed as follows:

Step (1) First compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	$300	$100
Net long-term capital loss	0	0
Net short-term capital gain	0	0
Net short-term capital loss	100	0

Step (2) Next compute capital gain net income and net capital gain from sources without the United States and from all sources as follows:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a)$200	(b)$100
Net capital gain	(c)200	(d)100

Step (3) Next calculate foreign source capital gain net income and foreign source net capital gain, which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is $100,000, and foreign source net capital gain is $100,000.

Step (4) Compute taxable income from sources without the United States, using 18/46 as the rate differential portion, as follows:

Foreign business income + Foreign source capital gain net income − 18/46 (foreign source net capital gain)

$1,200,000 + $100,000 − 18/46 ($100,000) (39,130) = $1,260,870

Step (5) Compute the entire taxable income as follows:

Business income + Capital gain net income − 18/46 (net capital gain)

$3,200,000 + $100,000 − 18/46 ($100,000) (39,130) = $3,260,870

Example (2). Corporation B had the following business taxable income, capital gains, and capital losses for 1979:

	In thousands		
	Foreign source	U.S. source	All sources
Business income	$1200	$2000	$3200
Long-term capital gain	300	200	500
Long-term capital loss	500	100	600
Short-term capital gain	600	200	800
Short-term capital loss	100	200	300

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income of B are computed as follows:

Step (1) First compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	0	0
Net long-term capital loss	$200	$100
Net short-term capital gain	500	500
Net short-term capital loss	0	0

Step (2) Next compute capital gain net income and net capital gain from sources without the United States and from all sources as follows:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a) $300	(b) $400
Net capital gain	(c) 0	(d) 0

Step (3) Next calculate foreign source capital gain net income and foreign source net capital gain which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is $300,000 and foreign source net capital gain is zero.

Step (4) Compute taxable income from sources without the United States, using 1/46 as the rate differential portion, as follows:

Foreign business income + Foreign source capital gain net income − 18/46 (foreign source net capital gain)

$1,200,000 + $300,000 − 18/46 (0) = $1,500,000

Step (5) Compute the entire taxable income as follows:

Business income + Capital gain net income − 18/46 (net capital gain)

$3,200,000 + $400,000 − 18/46 (0) = $3,600,000

Example (3). Corporation C had the following business taxable income, capital gains, and capital losses for 1979:

	In thousands		
	Foreign source	U.S. source	All sources
Business income	$1200	$2000	3200
Long-term capital gain	200	500	700
Long-term capital loss	600	100	700
Short-term capital gain	300	400	700
Short-term capital loss	500	100	600

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income of C are computed as follows:

Step (1) First compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	0	0
Net long-term capital loss	$400	0
Net short-term capital gain	0	$100
Net short-term capital loss	200	0

Step (2) Next compute capital gain net income and net capital gain from sources without the United States and from all sources:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a) 0	(b) $100
Net capital gain	(c) 0	(d) 0

Step (3) Next calculate foreign source capital gain net income and foreign source net capitalgain which is the lesser of (a) or (b) and the lesser of (c) or (d) respectively. Foreign source capital gain net income is zero and foreign source net capital gain is zero.

Step (4) Under paragraph (a)(3)(i) of this section, the taxable income from sources without the United States is reduced by the amount by which the net capital loss allocable or apportionable to sources without the United States reduces capital gains (long and short-term) from sources within the United States when computing capital gain net income. This is determined by first computing the net capital loss allocable or apportionable to sources without the United States ($600,000) and the capital gain net income from sources within the United States ($700,000). In this case, $600,000 of net capital loss allocable or apportionable to sources without the United States reduces $600,000 of net long and short-term capital gains from sources within the United States in computing capital gain net income.

Step (5) Under paragraph (a)(3)(ii) of this section, the adjustment under paragraph (a)(3)(i) of this section is reduced by an amount equal to the rate differential portion of net capital gain from sources within the United States over net capital gain (from all sources). In this case, net capital gain from sources within the United States is $400,000 and net capital gain is zero, so an amount equal to 18/46 multiplied by $400,000 is added to the numerator of the foreign tax credit limitation fraction in computing taxable income from sources without the United States.

Step (6) Computation of foreign tax credit limitation fraction.

(i) Taxable income from sources without the United States is all follows:

$$\text{Foreign business income} + \text{Foreign source capital gain net income} - \frac{18}{46}\left(\text{foreign source net capital gain} - \left(\begin{array}{l}\text{paragraph (a) (3) (i)}\\ \text{adjustment}\end{array}\right)\right) - \text{paragraph (a) (3) (ii) adjustment}$$

$$\$1{,}200{,}000 + 0 - 0 - \$600{,}000 + \frac{18}{46}\left(\begin{array}{l}\$400{,}000\\ (\$156{,}522)\end{array}\right) = \$756{,}522$$

(ii) The entire taxable income is as follows:

Business income + Capital gain net income − 18/46 (net capital gain)

$3,200,000 + $100,000 − 0 = $3,300,000

Note that no adjustment under paragraph (a)(3) is made with respect to the denominator.

Example (4). Corporation D had the following business taxable income, capital gains, and capital losses in 1979:

	In thousands		
	Foreign source	U.S. source	All sources
Business income	$2,000	$2,500	$4,500
Long-term capital gain	100	200	300
Long-term capital loss	100	100	200
Short-term capital gain	300	400	700
Short-term capital loss	600		600

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income are computed as follows:

Step (1) First compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	0	100
Net long-term capital loss	0	0
Net short-term capital gain	0	0
Net short-term capital loss	500	100

Step (2) Next compute capital gain net income and net capital gain from sources without the United States and from all sources:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a) 0	(b) 0
Net capital gain	(c) 0	(d) 0

Step (3) Next compute foreign source capital gain net income and foreign source net capital gain, which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is zero and foreign source net capital gain is zero.

Step (4) Under paragraph (a)(3)(i) of this section, the taxable income from sources without the United States is reduced by the amount by which the net capital loss allocable or apportionable to sources without the United States reduces capital gains (long and- short-term) from sources within the United States when computing capital gain net income. This is determined by first computing the net capital loss allocable

or apportionable to sources without the United States ($500,000), and the capital gain net income from sources within the United States ($500,000). In this case, $500,000 of net capital loss allocable or apportionable to sources without the United States reduces $500,000 of net long- and short-term gains from sources within the United States in computing capital gain net income.

Step (5) Under paragraph (a)(3)(ii) of this section, the adjustment under paragraph (a)(3)(i) of this section is reduced by an amount equal to the rate differential portion of net capital gain (from all sources). In this case, net capital gain from sources within the United States over net capital gain (from all sources). In this case, net capital gain from sources within the United States is $100,000 and the net capital gain is zero, so an amount equal to 18/46 multiplied by $100,000 is added to the numerator of the foreign tax credit limitation fraction in computing taxable income from sources without the United States.

Step (6) Computation of foreign tax credit limitation fraction.

(i) Taxable income from sources without the United States is as follows:

Foreign business income + Foreign source capital gain net income − 18/46 (foreign source net capital gain − (paragraph (a) (3) (i) adjustment − paragraph (a) (3) (ii) adjustment)

$2,000,000 + 0 − 0 − $500,000 + 18/46 ($100,000) = $1,539,130
($ 39,130)

(ii) The entire taxable income is determined as follows:

Business income + Capital gain net income − 18/46 (net capital gain)
$4,500,000 + 0 − = $4,500,000

Note that no adjustment under paragraph (a)(3) of this section is made with respect to the denominator.

§1.904(b)-2 Treatment of capital gains for other taxpayers.

(a) *In general.* For purposes of computing the foreign tax credit limitation of persons other than corporations, the following rules apply:

(1) *Inclusion in foreign source taxable income.* The taxable income from sources without the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income (as defined in paragraph (b)(2) of § 1.904(b)-1), reduced by an amount determined by multiplying foreign source net capital gain (as defined in paragraph (b)(4) of § 1.904(b)-1) by the percentage specified under section 1202 (a).

(2) *Inclusion in entire taxable income.* The entire taxable income of a taxpayer other than a corporation shall include gains from the sale or exchange of capital assets only to the extent of capital gain net income (as defined in paragraph (b)(1) of § 1.904(b)-1), reduced by an amount determined by multiplying net capital gain (as defined in paragraph (b)(3) of § 1.904(b)-1) by the percentage specified under section 1202 (a).

(3) *Treatment of capital losses.* The taxable income from sources without the United States shall be reduced by:

(i) Any net capital loss (as defined in paragraph (b) of this section) allocable or apportionable to sources without the United States to the extent taken into account in determining capital gain net income, less

(ii) An amount equal to the excess of net capital gain from sources within the United States over net capital gain, multiplied by the percentage specified under section 1202(a).

(b) *Definition of net capital loss.* For purposes of paragraph (a) of this section, the term "net capital loss" means the excess of the losses from the sale or exchange of capital assets and any carryforward as determined under section 1212 over the amount allowed under section 1211(b).

(c) *Illustrations.* The principles of paragraph (a) of this section are illustrated by the following examples:

Example (1). X, an individual, has $1,500,000 of foreign source taxable income and $2,500,000 of U.S. source taxable income (exclusive of capital gains and losses) for 1979 and the following capital gains and losses:

	In thousands		
	Foreign source	U.S. source	All sources
Long-term capital gain	$300	$500	$800
Long-term capital loss	100	500	600
Short-term capital gain	100	400	500
Short-term capital loss	100	200	300

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income of X are computed as follows:

Step (1) First, compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	$200	$200
Net long-term capital loss	0	0
Net short-term capital gain	0	200
Net short-term capital loss	0	0

Step (2) Next compute capital gain net income and net capital gain from sources without the United States and from all sources as follows:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a) $200	(b) $400
Net capital gain	(c) 200	(d) 200

Step (3) Next calculate foreign source capital gain net income and foreign source net capital gain, which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is $200,000 and foreign source net capital gain is $200,000.

Step (4) Compute taxable income from sources without the United States, using 0.60 as the percentage specified in section 1202(a), as follows:

Foreign taxable income (exclusive of capital gains and losses) + Foreign source capital gain net income − 0.60 (foreign source net capital gain)
$1,500,000 + $200,000 − 0.60($200,000) = $1,580,000

Step (5) Compute the entire taxable income as follows:

Taxable income (exclusive of capital gains and losses) + Capital gain net income − 0.60 (net capital gain)

$4,000,000 + $400,000 − 0.60 ($200,000) ($120,000) = $4,280,000

Example (2). Y, an individual, has $2,000,000 of foreign source taxable income and $3,000,000 of U.S. source taxable income (exclusive of capital gains and losses) for 1979 and the following capital gains and losses:

	In thousands		
	Foreign source	U.S. source	All sources
Long-term capital gain	$200	$800	$1,000
Long-term capital loss	700	100	800
Short-term capital gain	100	300	400
Short-term capital loss	300	200	500

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income of Y are computed as follows:

Step (1) First, compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the United States	All sources
Net long-term capital gain	0	$200
Net long-term capital loss	$500	0
Net short-term capital gain	0	0
Net short-term capital loss	200	100

Step (2) Next compute the capital gain net income and net capital gain from sources without the United States and from all sources as follows:

	In thousands	
	Sources without the United States	All sources
Capital gain net income	(a) 0	(b) $100
Net capital gain	(c) 0	(d) 100

Step (3) Next calculate foreign source capital gain net income and foreign source net capital gain, which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is zero and foreign source net capital gain is also zero.

Step (4) Under paragraph (a)(3)(i) of this section, the taxable income from sources without the United States is reduced by the amount by which the net capital loss allocable or apportionable to sources without the United States reduces capital gains (long and short-term) from sources within the United States when computing capital gain net income. This is determined by first computing the net capital loss allocable or apportionable to sources without the United States ($700,000) and the capital gain net income from sources within the United States ($800,000). In this case, $700,000 of net capital loss allocable or apportionable to sources without the United States reduces $700,000 of long and short-term capital gain in computing capital gain net income.

Step (5) Under paragraph (a)(3)(ii) of this section, the adjustment under paragraph (a)(3)(i) of this section is reduced by an amount equal to the difference between net capital gain from sources within the United States and net capital gain (from all sources), multiplied by the percentage specified under section 1202(a). In this case, the net capital gain from sources within the United States is $700,000 the net capital gain is $100,000 and the percentage specified under section 1202(a) is 0.60.

Step (6) Computation of foreign tax credit limitation fraction.

(i) Taxable income from sources without the United States is as follows:

Foreign income (exclusive of capital gains and losses) + Foreign source capital gain net income − 0.60 (foreign source net capital gain) − (paragraph (a) (3) (i) adjustment − paragraph (a) (3) (ii) adjustment)

$2,000,000 + 0 − 0 − $700,000 + 0.60 ($600,000) ($360,000) = $1,660,000

(ii) The entire taxable income is as follows:

Taxable income (exclusive of capital gains and losses) + Capital gain net income − 0.60 (net capital gain)

$5,000,000 + $100,000 − $60,000 = $5,040,000

Note that no adjustment under paragraph (a)(3) of this section is made with respect to the denominator.

§ 1.904(b)-3 Sale of personal property.

(a) *General rule.* For purposes of section 904 and the regulation, thereunder, there shall be included as gain from sources within the United States any gain from sources without the United States arising from the sale or exchange of a capital asset which is personal property (as defined in § 1.1245-3(b)). For purposes of this paragraph, gain from the sale or exchange of a capital asset shall include net section 1231 gain, but shall not include gain from the sale or exchange of a capital asset which is not treated as capital gain. The special source rules provided under this section shall be applied on an item by item basis with respect to the sale of personal property within any taxable year, except that if substantially all the assets of a trade or business (within the meaning of section 368(a)(1)(C)) are sold within any one country within any taxable year, the gains and losses from such sales of such assets shall be netted before applying the source rules under this section.

(b) *Special rules.* Paragraph (a) of this section shall not apply in each of the following cases:

(1) In the case of an individual, if the property is sold or exchanged within the

country or possession of the individual's residence.

(2) In the case of a corporation if the property is stock in a second corporation, and is sold in a country or possession in which the second corportaion derived more than 50 percent of its gross income for the 3-year period ending with the close of such second corporation's taxable year immediately proceding the year during which the sale or exchange occurred (or for such part of such period as the corporation has been in existence, but in no event less than a 12-month period). For purposes of this paragraph (b)(2) of this section the gross income of any foreign corporation shall be computed in the same manner as if the foreign corporation were a domestic corporation. Thus, the gross income of a foreign corporation for this purpose includes income from all sources, which is not specifically excluded from gross income under any other provisions of the Code.

(3) In the case of any taxpayer, if the property is personal property (other than stock in a corporation) which is sold or exchanged in a country or possession in which the property is used in a trade or business of the taxpayer, or in which the taxpayer derived more than 50 percent of its gross income for the 3-year period ending with the close of its taxable year immediately preceding the year during which the sale or exchange occurred (or, in case of a taxpayer other than an individual, for such part of such period as the taxpayer has been in existence, but in no event less than a 12-month period). In the case of property sold or exchanged by a partnership, trust, or estate, the determination required by the preceding sentence shall be made at the level of the partnership, trust (other than a grantor trust), or estate. For purposes of this paragraph (b)(3) of this section, the gross income of any foreign corporation (or other entity) shall be computed in the same manner as if the foreign corporation were a domestic corporation (or a domestic entity).

(c) *Exception.* Paragraph (a) of this section shall not apply to a sale of personal property if the gain (determined under chapter 1 of the Internal Revenue Code) from the sale or exchange of the personal property is subject to an income, war profits, or excess profits tax (including a tax withheld with respect to nonresident aliens or foreign corporations) with respect to a foreign country or a possession of the United States in which the sale or exchange occurs, and the rate of tax imposed by such country or possession applicable to such gain is 10 percent or more. For purposes of this paragraph, the tax must be 10 percent or more of the total amount of gain (whether ordinary or capital) arising from the sale or exchange of the item of personal property.

(d) *Application of source rules.* In determining the foreign country or possession where property is sold or exchanged for purposes of paragraphs (b) and (c) of this section, and the foreign country or possession where gross income is derived for purposes of paragraphs (b)(2), (b)(3) and (e) of this section, the source of any gain or income shall be determined by applying the principles under section 861, 862, and 863 and the regulations thereunder.

(e) *Gain from liquidation of certain foreign corporations.* Paragraph (a) shall not apply with respect to a distribution in liquidation of a foreign corporation to which Part II of subchapter C applies, if such corporation derived less than 50 percent of its gross income from sources within the United States for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year during which the distribution occurred (or for such part of such period as the corporation has been in existence, but in no event less than a 12-month period). For purposes of paragraph (e) of this section, the gross income of the foreign corporation shall be computed in the same manner as if the foreign corporation were a domestic corporation.

(f) *Residence defined.* For purposes of paragraph (b)(1) of this section, the country of an individual's residence is to be determined by applying the rule under § 1.871–2(b).

(g) *Tax rate applicable to gain.* For purposes of paragraph (c) of this section, the tax rate applicable to the gain on the sale or exchange of personal property (as determined under Chapter 1 of the Internal Revenue Code of 1954) shall be dertermined by applying the tax laws of the foreign country or possession (and any applicable reduction under a tax treaty) to such gain and by treating the gain from such transaction as if such gain were the only income derived by the taxpayer during the taxable year (and the only deductions allowed are deductions directly attributable to such gain).

(h) *Country in which gross income derived.* Notwithstanding paragraph (d) of this section, for purposes of this section, dividends received by a shareholder who is not a U.S. person from a foreign corporation shall be deemed to be derived from sources within the foreign country under the laws of which the foreign corporation is created or organized.

§ 1.904 (b)–4 Effective date.

Sections 1.904(b)–(1) and 1.904(b)–2 shall apply to taxable years beginning after December 31, 1975 and § 1.904(b)–3 shall apply to sales and exchanges made after November 12, 1975.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-255 Filed 1-5-83; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 301

[LR–153–81]

Penalties for Failure to Make a Return or Furnish a Statement Required Under Section 6039C

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary income tax regulations relating to penalties for failure to make a return or furnish a statement required under section 6039C. The temporary regulations also serve as a notice of proposed rulemaking for final regulations on Procedure and Administration.

DATE: Written comments and requests for a public hearing must be delivered or mailed before March 7, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–153–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mary Elizabeth Dean of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR–153–81), 202–566–3289.

SUPPLEMENTARY INFORMATION: The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** add a new § 6a.6652 (g)–1 to CFR Part 6a containing Temporary Income Tax Regulations under Subtitle C of Title XI of the Omnibus Reconciliation Act of 1980. The final regulations that are proposed to be based on the temporary regulations would add a new § 301.6652–4 to 26 CFR Part 301.

For the text of the temporary regulations, see FR Doc. [T.D. 7866] published in the Rules and Regulations portion of this issue of the Federal Register.

Regulatory Flexibility Act and Executive Order 12291

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]. The Commissioner of Internal Revenue has determined that this proposed rule is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

List of Subjects in 26 CFR Part 301

Income taxes, Penalties, Filing requirement.

Comments and Request for a Public Hearing

Before adopting the temporary and proposed regulations referred to in this document as final regulations, consideration will be given to any written comments that are submitted [preferably seven 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 held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Mary Elizabeth Dean of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matter of substance and style.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-253 Filed 1-5-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 115

[CCGD7-82-16]

Sunshine Skyway Bridge Pier Protection System; Tampa Bay, Gulf Intracoastal Waterway, Florida; Permit Amendment

AGENCY: Coast Guard, DOT.

ACTION: Public hearing on proposed pier protection system.

SUMMARY: The Commander, Seventh Coast Guard District, has authorized a joint public hearing to be held with the Florida Department of Transportation to receive comments on a proposed amendment to the Coast Guard permit approving location and plans of the new Sunshine Skyway Bridge across Tampa Bay, Gulf Intracoastal Waterway, Florida. The amendment concerns the addition of a pier protection system. This hearing is being held to gather information and data necessary to prepare the environmental documentation for the Coast Guard's decision regarding the permit amendment.

DATES: (a) The hearing will be held on 27 January 1983 at 7 p.m.; (b) Written comments may be submitted on or before 28 February 1983.

ADDRESSES: (a) The location of the hearing will be The Sheraton—St. Petersburg, Sun and Sea Rooms, 6800 34th Street South, St. Petersburg, Florida 33711.

(b) Written comments should be submitted to Mr. J. C. Kraft, Chief, Bureau of the Environment, Florida Department of Transportation, 605 Suwannee Street, M. S. 37, Tallahassee, Florida 32301 and will be made available for examination from 7:30 a.m. to 4:00 p.m., Monday through Friday, except holidays, at the office of the Commander (oan), Seventh Coast Guard District, Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130 and from 8:00 a.m. to 4:00 p.m. at the ofice of the Florida Department of Transportation, 801 North Broadway, Bartow, Florida 33830.

Comments may also be hand-delivered to the above Tallahassee address.

FOR FURTHER INFORMATION CONTACT: Mr. J. C. Kraft, Chief, Bureau of the Environment, Florida Department of Transportation, 605 Suwanee Street, M. S. 37, Tallahassee, Florida 32301. Telephone (904) 488-2911.

SUPPLEMENTARY INFORMATION: The hearing will be informal. The Florida Department of Transportation will preside over the hearing. A Coast Guard representative will also attend the hearing and make a brief opening statement describing the Coast Guard's involvement with the proposed action. Each person who wishes to make an oral statement should notify the Florida Department of Transportation, Bartow, Florida by 21 January 1983. Such notification should include the approximate time required to make the presentation.

A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of this proposed action by submitting their comments in writing. Each comment should state reasons for support or opposition, suggest any proposed changes to the action, and include the name and address of the person or organization submitting the comment. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

All comments received will be considered before final action is taken on the proposed action. After the time set for the submision of comments, the Commander, Seventh Coast Guard District will determine a recommended final course of action. The District Commander will then forward the record, including all written comments and his recommendations to the Commandant, United States Coast Guard, for final action.

(33 U.S.C. 491; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 115.60(b)(2))

Dated: December 21, 1982.

D. C. Thompson,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 83-58 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 6

Solicitation of Social Security Numbers

AGENCY: Federal Emergency Management Agency [FEMA].

ACTION: Proposed rule.

SUMMARY: This proposed regulation change amends FEMA regulation 44 CFR 6.3(c) to reduce a restriction on solicitation of social security numbers.

The existing regulations prevent solicitation of social security numbers which are needed for Administration of training programs.

DATE: Comments received on or before March 7, 1983, will be considered.

ADDRESS: Comments should be sent to Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 835, 500 C Street SW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Ainora, Office of General Counsel, FEMA (202) 287–0379.

SUPPLEMENTARY INFORMATION: FEMA's Privacy Act Regulations, 44 CFR 6.3(c) presently reads as follows:

* * * * *

(c) Solicitation of Social Security Numbers: Before an employee of FEMA requests an individual to disclose his or her social security number, the employee of FEMA shall ensure that either:

(1) The disclosure is required by Federal statute, or;

(2) The disclosure of a social security number was required under statute or regulation adopted before January 1, 1975, to verify the identity of an individual, and the social security number will become a part of a system of records in existence and operating before January 1, 1975. If solicitation of the social security number is authorized under paragraph (c)(1) or (2) of this section, the FEMA employee who requests an individual to disclose the social security account number, shall first inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and the uses that will be made of it.

FEMA proposes to change this regulation as set out below:

This regulation deals with administrative matters and hence is categorically excluded from the requirement for an environmental assessment under 44 CFR Part 10. Further, it is not a major regulation under the Terms of Executive Order 12291 and, since it deals with individuals, does not have impact on small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The regulation, as amended, does not require disclosure of any information and is not an information collection requirement. Any collection or attempt at collection of the social security number on any form or elsewhere must be justified in a separate process.

List of Subjects in 44 CFR Part 6

Privacy.

Accordingly, 44 CFR Part 6 is proposed to be amended by revising paragraph (c) of § 6.3 to read as follows:

PART 6—IMPLEMENTATION OF PRIVACY ACT OF 1974

* * * * *

§ 6.3 Collection and use of information (Privacy Act Statements).

* * * * *

(c) Solicitation of Social Security Numbers:

Before an employee of FEMA can deny to any individual right, benefit, or privilege provided by law because of such individual refusal to disclose his/her social security account number, the employee of FEMA shall ensure that either:

(1) The disclosure is required by Federal statute, or;

(2) The disclosure of a social security number was required under statute or regulation adopted before January 1, 1975, to verify the identity of an individual, and the social security number will become a part of a system of records in existence and operating before January 1, 1975. If solicitation of the social security number is authorized under paragraph (c)(1) or (2) of this section, the FEMA employee who requests an individual to disclose the social security account number shall first inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and the use that will be made of it.

* * * * *

Dated: December 23, 1982.

Louis O. Giuffrida,

Director.

[FR Doc. 83-333 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-01-M

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44 CFR Part 67

[Docket No. FEMA-6384]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Tennessee

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Springfield, Robertson County, Tennessee.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 47 FR 35799 on August 17, 1982, and in the *Robertson County Times* on October 7, and October 14, 1982, and hence supersedes those previously published rules.

DATE: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and othe information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for inspection at City Hall, 123 Fifth Avenue West, Springfield, Tennessee 37172.

Send comments to: Mayor Dave Fisher or Mr. Art Garrett, City Planner, City Hall, 123 Fifth Avenue West, Springfield, Tennessee 37172.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Ph.D., National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Springfield, Tennessee in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(A).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are

adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Tennessee	City of Springfield, Robertson County	Beaver Dam Creek	Just upstream of unnamed road (upstream crossing)	*568
		Wartrace Creek	Just downstream of Lake Wartrace Dam	*564
		do	Just upstream of Lake Wartrace Dam	*594
		do	Just upstream of Old Green Briar Pike	*632
		Carr Creek	Just upstream of New Chapel Road	*529
		do	Just upstream of Burr Road	*548
		do	Just upstream of State Highway 65 and U.S. Highway 431.	*569
		do	Just upstream of New Cut Road	*595
		Sulphur Fork	Just upstream of Main Street	*547
		do	Just downstream of 5th Avenue East	*558

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 20, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-312 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6473]

Proposed Base Flood Elevation and Zone Designation Determinations for the Town of Goodyear, Maricopa County, Arizona; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already if effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the office of the Mayor, City Hall, 119 North Litchfield Road, Goodyear, Arizona.

Send comments to: Honorable Charles H. Salem, Mayor, Town of Goodyear, 119 North Litchfield Road, Goodyear, Arizona 85338.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the Town of Goodyear, Arizona in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base flood elevations and zone designations are as follows:

Source of flood and location	Elevation (feet) national geodetic vertical datum	Zone designation
Gila River and Agua Fria River:		
Just upstream of Sarival Avenue extended.	908	A5 and A14
Just downstream of Reems Road.	910, 914	A14 and A5
Just downstream of Bullard Avenue.	918	A14
At Broadway Road	933	A2

All the remaining annexed areas have been identified as Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of

technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 14, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-362 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6474]

Proposed Based Flood Elevation and Zone Designation Determinations, Healdsburg, Sonoma County, California; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plan management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Department of Public Works, 550 West Side Road, Healdsbur, California.

Send comments to: Honorable Paul Dix, Mayor, City of Healdsburg, 126 Matheson Street, Healdsburg, California

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Managment Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Healdsburg, California in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minumum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation National geodetic vertical datum (feet)	Zone designation
Russian Revier:		
Just upstream of Old U.S. Highway 101.	88	A13.
Just upstream of Healdsburg Avenue.	96	A13.
At the easternmost corporate limits.	104	A13.

Along Foss Creek, in the area located south of Old U.S. Highway 101, the proposed zone designation has been revised from Zones A5 and A9 to Zone A. All the remaining annexed areas have been identified as Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities.

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 4, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-352 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6476]

Proposed Base Flood Elevation and Zone Designation Determinations for Ascension Parish, Louisiana; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Ascension Parish Courthouse East, 828 South Irma Boulevard, Gonzales, Louisiana.

Send comments to: Mr. J. Carey Frederic, President of the Policy Jury, Ascension Parish, P.O. Box 351, Donaldsonville, Louisiana 70346.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency

Management Agency, Washington, DC 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for Ascension Parish, Louisiana, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Bayou Conway:		
At the downstream limit of detailed study.	5.0	A1.
Just downstream of Route 22.	5.7	A1.
At a point located approximately 3400 feet downstream of Route 941.	6.8	A1.
At a point located approximately 1700 feet downstream of Route 932.	7.0	A1.

Also along Bayou Conway, the area generally located between Route 932 and the eastern corporate limits of the Town of Gonzales, the proposed zone designation is Zone AH with an elevation of 7 feet NGVD. In addition, the corporate boundaries for the Town of Gonzales have been revised to reflect the latest annexations.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 15, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-359 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA–6478]

Proposed Special Flood Hazard Area Determinations For Cascade County, Montana; Under National Flood INsurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed special flood hazard areas as described below.

The proposed special flood hazard areas are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program(NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed special flood hazard areas are available for review at the Office of the County Commissioner, Cascade County Courthouse, Great Falls, Montana.

Send comments to: Mr. Franklin H. Steyaert, County Commissioner, Cascade County Courthouse, Great Falls, Montana 59401.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed special flood hazard areas for Cascade County, Montana in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These special flood hazard areas, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed special flood hazard areas will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed special flood hazard areas, identified as Zone A, on Panel 710 of 1300, have been added along the Missouri River, between the Private Road located in Section 2 and the limit of detailed study. On Panel 409 of 1300, the reference mark elevations have been corrected.

Pursuant to the provisions of 5 U.S.C 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegted by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act

of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 17, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-360 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6479]

Proposed Special Flood Hazard Area Determinations for Hazen, Mercer County, North Dakota; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed special flood hazard areas as described below.

The proposed special flood hazard areas are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed special flood hazard areas are available for review at the Office of the City Auditor, Hazen, North Dakota.

Send comments to: Mr. Mel Beckler, President, City of Hazen, P.O. Box 717, Hazen, North Dakota 58545.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Natural Hazards Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed special flood hazard areas for the City of Hazen, North Dakota in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These special flood hazard areas, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed special flood hazard areas will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed special flood hazard areas, identified as Zone A, have been added along three unnamed streams. The first area is generally bounded by Main Street, Central Avenue, Burlington Northern Railroad and the western corporate limits. The second area is generally located just west of Third Avenue West. The third area is generally located in the northeasternmost portion of the City.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 17, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-361 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6477]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Carrollton, Dallas, Denton and Collin Counties, Texas Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Engineer, 1620 Denton Drive, Carrollton, Texas. Send comments to: Honorable Leddie Taylor, Mayor, City of Carrollton, 1002 Broadway, P.O. Box 535, Carrollton, Texas 75006.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Carrollton, Texas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not

be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation, National geodetic vertical datum (feet)	Zone designation
Stream 6D5:		
At the point located approximately 800 feet upstream of Keller Springs Road.	509	A1.
At a point located just upstream of Springleaf Drive.	520	A1.
At the limit of detailed study...	537	A1.
Furneaux Creek: At Hebron Parkway.	553	A2.
Cooks Branch: Area generally located east of Wallace Road and north of the levee.	430	AH.

Also along Furneaux Creek, the proposed special flood hazard area, identified as Zone A, has been added upstream of Hebron Parkway. Along the Elm Fork of Trinity River, the proposed zone designations have been revised from Zone A5 to Zones A4 and A7, and the base flood elevations remain the same. Along Hutton Branch, between a point located approximately 1800 feet downstream of Interstate Route 35 and just downstream of Perry Road, the proposed zone designation has been revised from Zone A5 to Zone A3, and the base flood elevations remain the same. Additional annexed areas have been identified as Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 15, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-332 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[CGD 82-105]

Documentation of Vessels

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period for advance notice of proposed rulemaking.

SUMMARY: On November 12, 1982, the Coast Guard published in the **Federal Register** (47 FR 51170) an advance notice of proposed rulemaking seeking comments by January 11, 1983, concerning definition of the term "controlling interest" in relation to partnerships for purposes of vessel documentation. A request has been received for an extension of the comment period. Notice is hereby given that the closing date for comments concerning the advance notice of proposed rulemaking is extended to the close of business on January 24, 1983.

DATE: The comment period is extended to January 24, 1983.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/24), (CGD 82-105), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered and will be available for inspection or copying at the Marine Safety Council (G-CMC/24), room 4402, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 426-1477 between the hours of 7 a.m. and 5 p.m. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mrs. Phyllis D. Carnilla (Project Manager) or Lieutenant Robert R. Meeks (Staff Attorney), Office of Merchant Marine Safety, Room 1312, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426-1492, or (202) 426-1493. Normal office hours are between 7 a.m. and 5 p.m. Monday through Friday, except holidays.

Dated: December 30, 1982.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 83-378 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-14-M

Notices

Federal Register
Vol. 48, No. 4
Thursday, January 6, 1983

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

DEPARTMENT OF AGRICULTURE

Forest Service

Prescott National Forest Grazing Advisory Board; Meeting

The Prescott National Forest Grazing Advisory Board will meet at 10:00 A.M. on March 4, 1983, at the Forest Supervisor's Office in Prescott, Arizona.

The purpose of this meeting is to review items of mutual interest to grazing permittees and the Forest Service. Discussion will be limited to use of range betterment funds and management planning.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Prescott National Forest, 344 South Cortez Street, Prescott, Arizona, telephone number (602) 445–1762. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation:

Members of the public will be given an opportunity for comments and questions following discussion by the Advisory Board.

December 23, 1982.

Donald H. Bolander,

Forest Supervisor.

[FR Doc.83–301 Filed 1–5–83; 8:45 am]

BILLING CODE 3410–11–M

CIVIL RIGHTS COMMISSION

Louisiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference of the Louisiana Advisory Committee to the Commission will convene at 10:00a and will end at 12 Noon, on February 3, 1983, at the Capitol House, Royal Rouge Room, 201 Lafayette Street, Baton Rouge, Louisiana 70801. The purpose of this press conference is to release the report on block grants.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Louis C. Pendleton, 1514 Gary, Shreveport, Louisiana 71103, (318) 424–1297; or the Southwestern Regional Office, Hertiage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 730–5570.

The press conference will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 3, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–334 Filed 1–5–83; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Anhydrous and Aqua Ammonia From Mexico; Postponement of Preliminary Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary countervailing duty determination.

SUMMARY: The preliminary countervailing duty determination involving anhydrous and aqua ammonia from Mexico is being postponed because the investigation has been determined to be extraordinarily complicated. We intend to issue the preliminary determination not later than March 28, 1983.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377–5496.

SUPPLEMENTARY INFORMATION: On November 17, 1982, we initiated a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Mexico of anhydrous and aqua ammonia receive any benefits that constitute bounties or grants (47 FR 53440). The notice stated that we would issue a preliminary determination by January 21, 1983.

The product covered by this investigation is anhydrous and aqua ammonia from Mexico. The imported merchandise is currently provided for in items 417.2000, 417.2200, 480.6540, and 480.6560 of the *Tariff Schedules of the United States Annotated.*

As detailed in the notice of initiation of the countervailing duty investigation, the petition alleges that the government of Mexico provides various programs which constitute bounties or grants to producers, manufacturers, or exporters in Mexico of anhydrous and aqua ammonia. The alleged subsidy practices are numerous and complex and present novel issues. The petitioners have made allegations concerning 14 different subsidy practices, which involve complex issues such as government-owned enterprises; export, regional, and industry sector programs; and tax, transportation, and other preferential incentives. In particular, the allegation of preferential prices on natural gas used to manufacture ammonia raises issues which have never been investigated before under the countervailing duty law. We have determined that the government of Mexico and the other parties concerned are cooperating and that additional time is necessary to make the preliminary countervailing duty determination.

For these reasons we determine that this case is extraordinarily complicated in accordance with section 703(c)(1)(B)(i) of the Tariff Act of 1930, as amended (the Act), and that additional time is necessary to make the preliminary determination in accordance with section 703(c)(1)(B)(ii) of the Act. We intend to issue the preliminary determination not later than March 28, 1983.

This notice is published pursuant to section 703(c)(2) of the Act.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

December 29, 1982.

[FR Doc. 83–324 Filed 1–5–83; 8:45 am]

BILLING CODE 3510–25–M

Management-Labor Textile Advisory Committee; Change of Room for Meeting

On December 8, 1982 a notice dated December 2, 1982 was published in the **Federal Register** (47 FR 55261),

announcing a meeting of the Management-Labor Textile Advisory Committee on January 19, 1983 at 1:00 p.m. in Room 4830, Main Commerce Department Building, 14th Street and Constitution Avenue, NW.

The purpose of this notice is to announce that the room for the meeting has been changed to Room 6802. The date, time, and agenda for the meeting remain the same as previously announced.

Paul T. O'Day,

Deputy Assistant Secretary for Trade Development.

[FR Doc. 83-374 Filed 1-5-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic amd Atmospheric Administration

Bolt Beranek and Newman Inc.; Issuance of Permit To Take Endangered Species

On July 28, 1982, Notice was published in the **Federal Register** (47 FR 32558), that an application had been filed with the National Marine Fisheries Service by Bolt Beranek and Newman Inc., 10 Moulton Street, Cambridge, Massachusetts 02238 for a Scientific Research and Scientific Purposes Permit to take up to 400 gray whales by harassment.

Notice is hereby given that on December 29, 1982, the National Marine Fisheries Service issued a Scientific Research and Scientific Purposes Permit as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), to Bolt Beranek and Newman Inc., subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with and is subject to Parts 220–222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 29, 1982.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-262 Filed 1-5-83; 8:45 am]

BILLING CODE 3510-22-M

[Modification No. 1 to Permit No. 363]

University of California; Marine Mammal Permit

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 363, issued to Drs. Jennifer Buchwald, Carl Shipley, and Robin Fisher, Department of Physiology and Brain Research Institute, University of California, Los Angeles, California 90024 on January 4, 1982, is modified to extend the period of authorized taking for one year.

Section B-6 is deleted and replaced by: "6. This Permit is valid with respect to the taking authorized herein until December 31, 1983."

This modification becomes effective upon publication in the **Federal Register.**

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 27, 1982.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-261 Filed 1-5-83; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board, Ad Hoc Committee on EF-111A Capability Upgrade; Meeting

December 15, 1982.

The USAF Scientific Advisory Board Ad Hoc Committee on EF-111A Capability Upgrade will meet at the Pentagon, Washington, DC on January 24–25, 1983. The purpose of the meeting will be to review possible subsystem concepts for the upgrade. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-260 Filed 1-5-83; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary

Defense Science Board; Advisory Committee Meeting

The Defense Science Board will meet in closed session on 9–10 February 1983 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 9–10 February 1983 the Board will discuss interim findings and tentative recommendations resulting from ongoing Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communications, and Technology Issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

January 3, 1983.

[FR Doc. 83-367 Filed 1-5-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Adult Education National Advisory Council; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: January 26, 1983, 8:00 to 12:00 noon, Program Visitation, 1:00 to 5:00 p.m., Committee Meetings; January 27–28, 1983, 8:00 a.m. to 5:00 p.m., Full Council Meeting.

ADDRESS: Ramada Valley Ho, 6850 Main Street, Scottsdale, Arizona.

FOR FURTHER INFORMATION CONTACT: Helen Banks, Administrative Assistant, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council is open to the public. The proposed agenda includes:

Development of Recommendation on Consolidation.
Development of Format for 1982 Annual Report.
Program Visitation to Indian Reservations.
Committee Meetings.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C., 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C. on January 3, 1983.

Rick Ventura,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 83-259 Filed 1-5-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act (NEPA); Amendments to the DOE NEPA Guidelines

AGENCY: Energy Department.

ACTION: Amendments to Guidelines for Compliance with the National Environmental Policy Act.

SUMMARY: The Department of Energy is amending its guidelines for compliance with the National Environmental Policy Act (NEPA) by adding eight (8) new categorical exclusions to the list of typical classes of action and modifying one (1) existing typical class of action.

EFFECTIVE DATE: Date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT:

Raymond P. Berube, Director, Compliance Policy Division, Office of Environmental Compliance, EP–361, U.S. Department of Energy, 1000 Independence Ave. SW., Room No. 4G–064, Washington, D.C. 20585, (202) 252–4600.

Henry Garson, Esq., Assistant General Counsel for Environment, GC–34, U.S. Department of Energy, 1000 Independence Ave. SW., Room No. 6D–033, Washington, D.C. 20585, (202) 252–6947.

SUPPLEMENTARY INFORMATION:

A. Background

On March 28, 1980 (45 FR 20694), the Department of Energy published in the **Federal Register** final guidelines for implementing the procedural provisions of NEPA as required by the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508). The guidelines are applicable to all organizational units of the Department of Energy, except the Federal Energy Regulatory Commission which is not subject to the supervision or direction of the other parts of the Department.

Section D of the Department's NEPA guidelines identifies typical classes of Department actions: Which normally do not require either an environmental assessment or an environmental impact statement; which normally require an environmental assessment but not necessarily an environmental impact statement; and which normally require an environmental impact statement. These classes of action were identified pursuant to 40 CFR 1507.3(b)(2).

The Department's NEPA guidelines state that the Department of Energy may add or remove actions from the categories in Section D based on experience gained during the implementation of the CEQ regulations and the guidelines. Pursuant to the guidelines, substantive revisions are to be published in the **Federal Register** and adopted only after opportunity for public review.

B. Adoption of Amendments Proposed on November 22, 1982 (47 FR 52499)

On November 22, 1982 (47 FR 52499), the Department of Energy proposed the addition of eight (8) new categorical exclusions, i.e., actions which normally require neither an environmental impact statement nor an environmental assessment. The new categorical exclusions are applicable to the Power Marketing Administrations within the Department, and are as follows:

1. Actions undertaken in order to bring an existing DOE transmission facility into compliance with changes in applicable Federal, state, or local environmental standards or to mitigate adverse environmental effects, where such actions do not impact environmental sensitive areas such as archeological sites, critical habitats, floodplains, wetlands, etc. Such actions include, for example, noise abatement measures, and the acquisition of additional rights-of-way to establish buffer areas.

2. Execution of contracts for the short-term (less than one-year) or seasonal acquisition of excess power from existing power resources which can be transmitted over existing transmission systems with no changes in the operations of the power resources.

3. Temporary adjustments to river operations to accommodate day-to-day river fluctuations, power demand changes, fish and wildlife conservation program requirements, and other external events where the adjustments result in only minor changes in reservoir levels and streamflows.

4. Contract interpretations, amendments, and modifications, including replacement, which are

clarifying or administrative in nature, and which do not extend the term or otherwise substantially change the contracts being amended.

5. Leasing or existing transmission facilities where the leases do not involve any change in operation.

6. Acquisition or minor relocation of existing access roads serving existing transmission facilities where the relocation does not impact environmentally sensitive areas such as archeological sites, critical habitats, floodplain/wetlands, etc.

7. Replacing conductors on existing transmission lines where the replacement conductors carry the same nominal voltage as the existing conductors and where the replacement work does not involve new support structures, new substations, or other new facilities.

8. Research, inventory, and information collection activities which are directly related to the conservation of fish and wildlife resources and which involve only negligible animal mortality or habitat destruction, and no introduction of either contaminants or exotic organisms.

A 30-day period was established for public comment on the categorical exclusions proposed on November 22, 1982. No comments were received during the public comment period. Accordingly, the Department hereby adopts the categorical exclusions as proposed.

C. Other Actions

As a result of adding the categorical exclusion for "Replacing conductors on existing transmission lines where the replacement conductors carry the same nominal voltage as the existing conductors and where the replacement work does not involve new support structures, new substations, or other new facilities," a modification to an existing typical class of action which normally requires an environmental assessment is necessary.

This typical class of action is "Upgrading (reconstructing or reconductoring) an existing transmission line", and should be modified by deleting the words "or reconductoring".

Issued in Washington, D.C., December 30, 1982.

William A. Vaughn,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 83-366 Filed 1-5-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since December 22, 1982.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATE: Last Notice published Wednesday, December 22, 1982. (47 FR 57088)

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., NW., Washington, DC 20585, (202) 252-2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7340

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395-3087

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should also be provided Mr. Gross. If you anticipate commenting on a form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., December 30, 1982.

Louis Gordon,

Acting Director, Statistical Standards, Energy Information Administration.

DOE Forms Review by OMB

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
EIA-67	Foreign Crude Oil Cost Report	Revision	Monthly	Mandatory	Selected Crude Oil Dealers	20	1,776	Data are used to develop weighted average costs for crude oil acquisitions from designated streams. Aggregated data are submitted to the International Energy Agency to monitor international petroleum market conditions and are used by DOE for analytical purposes.
EPA-781	International Import/ Export Data	Reinstatement	Annual	Mandatory	Electric Utilities	30	300	Data are used to monitor utilities authorized to export electric energy or to operate or construct facilities for the transmission of electric energy at international boundaries.
FERC-520	Application for Authority to Hold Interlocking Directions Position	Extension	On occasion	Mandatory	Individuals	100	100	Data are used to determine whether an applicant should be authorized to hold certain interlocking positions pursuant to section 305(b) of the Federal Power Act.

DOE FORMS REVIEW BY OMB—Continued

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
FPC-14	Annual Report for Importers and Exporters of Natural Gas.	Extension	Annual	Mandatory	Importers and Exporters of Natural Gas.	31	124	Date are used to assist the Federal Energy Regulatory Commission in the monitoring and regulation of imports and exports of natural gas.

[FR Doc. 83-270-Filed 1-5 83; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 82-002]

Alabama Power Co.; Application for Approval of Exhibit S

January 3, 1983.

Take notice that Alabama Power Company, Licensee for the Mitchell Project, FERC No. 82, on November 18, 1976, filed an application for approval of a revised Exhibit S, pursuant to the requirements of the license issued on November 26, 1975. The filing was supplemented on April 4, and May 10, 1977.

Correspondence with the Licensee should be directed to: Mr. F. L. Clayton, Jr., Senior Vice President, Alabama Power Company, P. O. Box 2641, Birmingham, Alabama 35291.

The Mitchell Project is located on the Coosa River in Chilton and Coosa Counties, Alabama. The revised Exhibit S provides for designating approximately 3,000 acres of project lands, located along the eastern side of Mitchell Lake, as a game reserve. The Licensee and the Alabama Department of Conservation and Natural Resources (DCNR) have entered into a Cooperative Wildlife Management and Public Hunting Area Agreement, whereby DCNR performs certain wildlife management activities and regulates public hunting in the area. Wildlife management activities include planting food and cover plants to maximize the production of white-tailed deer and eastern wild turkey.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before February 18, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-335 Filed 1-5-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-206-000]

Allegheny Power Service Corp.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that Allegheny Power Service Corporation (Allegheny) tendered for filing on December 22, 1982, an Agreement concerning limited power service dated December 21, 1982 among Monongahela Power Company (Monongahela), The Potomac Edison Company (Potomac), West Penn Power Company (West Penn) and Potomac Electric Power Company (Pepco).

Allegheny states that the Agreement sets forth terms pursuant to which Monongahela, Potomac and West Penn will deliver to Pepco from 200,000 to 300,000 kilowatts of limited term capacity and energy for the period January 1, 1983 through December 31, 1983.

Allegheny requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-366 Filed 1-5-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-208-000]

American Electric Power Service Corp.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on December 23, 1982 tendered for filing on behalf of its affiliate Appalachian Power Company (APCO), which is an AEP operating subsidiary, Modification No.

18 dated December 1, 1982 to the Interconnection Agreement dated February 1, 1948 between Virginia Electric and Power Company and APCO. The Commission has previously designated the 1948 Agreement as APCO's Rate Schedule FERC No. 16.

AEP states that Section 1 of this Agreement modernizes the Billings and Payments Article of the Interconnection Agreement. Section 2 of this Agreement revises the Short Term Power Service Schedule to include provisions for the sale of Short Term Power on a daily basis. Section 3 of this Agreement revises the Interchange Power Service Schedule to include provisions for multi-party economy energy transactions. The changes made by APCO to the service schedules in this Agreement are to comply with the Commission's Order 84 and to modernize the language of these service Schedules with Service Schedules previously filed by American Electric Power Service Corporation and accepted for filing by the Commission.

AEP requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-337 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-384-001]

Arkansas Louisiana Gas Co., a Division of Arkla, Inc.; Notice of Petition To Amend

December 30, 1982.

Take notice that on November 22, 1982,[1] Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Petitioner), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP82-384-001 a petition to amend the order issued September 1, 1982, in Docket No. CP82-384-000 pursuant to Section 7 of the Natural Gas Act so as to permit Petitioner to use the prior notice procedure under Section 157.211 of the Commission's Regulations in connection with requests for retail sales taps to serve end users not currently receiving gas from Petitioner at another service location on Petitioner's system, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it is in the primary business of selling natural gas at retail and in the conduct of that business it operates an integrated gas system including company-owned gathering, transmission and distribution facilities in a five-state regional service area in Arkansas, Louisiana, Texas, Oklahoma, and Kansas. Petitioner requests authorization under its blanket certificate issued pursuant to § 157.211 of the Commission's regulations to provide new service to residential, commercial, and industrial customers located along its pipeline which request such service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-284 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[1] The application was initially tendered for filing on November 22, 1982; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until November 24, 1982; thus, filing was not completed until the latter date.

[Docket No. ER 83-207-000]

Boston Edison Co.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that Boston Edison Company (Edison) on December 22, 1982, tendered for filing a specification of the contract demand service to be taken by the Town of Reading, Massachusetts (Reading) under Edison's contract demand tariff. Edison states that the filing does not change the terms and conditions of service or affect the rate level charged to Reading.

Edison requests an effective date of October 4, 1982, or within sixty days of this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-338 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-205-000]

Central Illinois Light Co.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that on December 22, 1982, Central Illinois Light Company (CILCO) tendered for filing an Interconnection Agreement between CILCO and the City of Springfield, Illinois (new Interconnection Agreement) dated January 1, 1983.

CILCO states that the New Interconnection Agreement is intended to replace entirely the presently effective interconnection between CILCO and Springfield. The New Interconnection Agreement contains proposed reciprocal service schedules for Limited Term Power, Emergency Energy, Short Term Power, Maintenance Power and General Purpose Energy. Also included in the New Interconnection Agreement is a service schedule designed to bring the other service schedules into compliance with FERC Order No. 84 whenever "energy

being supplied from CILCO to City is being purchased from a third party."

CILCO requests an effective date of March 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-339 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-192-000]

Central Illinois Public Service Co.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that on December 14, 1982, Central Illinois Public Service Company (CIPSCO) tendered for filing a Service Agreement between CIPSCO and Mt. Carmel Public Utility Company (Mt. Carmel) under which CIPSCO will provide transmission service in accordance with the Company's Rate Schedule W-5. The Service Agreement supersedes the W-3 agreement, FPC Schedule No. 75, between CIPSCO and Mt. Carmel.

CIPSCO requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-340 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-204-000]

Central Louisiana Electric Company, Inc.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that on December 20, 1982, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing an agreement among it and the other joint owners of Rodemacher Generating Station Unit No. 2, namely the Lafayette Public Power Authority and Louisiana Energy and Power Authority. The agreement allows each owner to use capacity and energy of Unit No. 2 that is owned but not used by the other owners.

CLECO requests an effective date of December 21, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-341 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-193-000]

Cleveland Electric Illuminating Co.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that on December 16, 1982, The Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A through E thereto, providing for the sale to the City of Cleveland, Ohio of 40 MW of power and associated energy generated by Big Rivers Electric Corporation, Henderson, Kentucky, at the cost to CEI of purchasing it from Ohio Power Company, and transmitted from the 345 kv interconnection point on CEI's Juniper-Canton Line with Ohio Power Company to the City in accordance with the terms and conditions of the CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the FERC's 60-day notice requirement in order to permit commencement of transmission service on December 1, 1982.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-347 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-113-000]

Colorado Interstate Gas Co. and Michigan Wisconsin Pipe Line Co.; Notice of Application

December 30, 1982.

Take notice that on December 7, 1982, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, and Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP83-113-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited-term deferred exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that in accordance with a deferred exchange agreement entered

into by the Applicants on November 1, 1982, Michigan Wisconsin has agreed to make available to CIG up to 79,000 dekatherms (dt) equivalent of natural gas per day on a firm basis and additional quantities on a best-efforts basis through April 30, 1983. Deliveries of such gas are proposed to be made at existing interconnections between the Applicants' systems in central Wyoming and Beaver County, Oklahoma. Thermally equivalent quantities of deferred exchange gas received by CIG would be redelivered to Michigan Wisconsin at existing system interconnections prior to October 1, 1984, it is submitted.

It is stated that there would be no transportation charge pursuant to the deferred exchange; however, either party delivering/redelivering gas in excess of the quantity delivered/redelivered by the other party in a calendar month would receive $3.224 per million Btu the following month for the net difference. No facilities are proposed to effectuate the exchange, for existing interconnections between the Applicants would be used, it is asserted.

It is stated that the gas to be delivered to CIG by Michigan Wisconsin under the deferred exchange is currently a Michigan Wisconsin supply being transported by CIG pursuant to a gas transportation and exchange agreement. It is further stated that the exchange volumes would also include a new supply source to be delivered by Michigan Wisconsin to CIG at the Beaver delivery point located on CIG's Southern System. The exchange would, it is asserted, provide CIG with an additional supply of gas part of which would be on CIG's Southern System where capacity would be available during the delivery period. It is stated that although CIG has more than adequate gas supplies on its Wyoming System to satisfy its customers' requirements, its Wyoming System is constrained by capacity. Applicants state that Michigan Wisconsin has sufficient supplies which are surplus to the requirements of its customers to accommodate the subject exchange.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-285 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. GP83-6-000, 81-761—764; JD Nos. 8222170-8222174]

Colorado Oil & Gas Conservation Commission and Davis Drilling, Inc. (Baughman Farms No. 1-5 Well, Burchfield No. 1-4 Well, Ernsting No. 1-28 Well, Farmer No. 1-34 Well, Self No. 1-9 Well); Petition To Reopen Section 107(c)(5) NGPA Well Category Determination

December 30, 1982.

On November 18, 1982, Colorado Interstate Gas Company filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen the final well category determinations that gas produced from the five above-captioned wells qualifies for the maximum lawful price set by § 271.704 of the Commission's regulations and section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301, 3317(c)(5) (Supp. IV 1980), as qualified production enhancement gas. The Commission received notice of the determinations by the Colorado Oil & Gas Conservation Commission (Colorado) on March 30, 1982. The determinations became final on May 14, 1982.

CIG is the ultimate purchaser of the gas produced from wells operated by Davis Drilling, Inc. (Davis) and currently sold to Geo Dyne Resources (Geo Dyne), the gatherer and reseller of the gas. Geo Dyne is the successor in interest to Baca Gas Gathering System, Inc. (Baca). CIG alleges that in applying for the subject production enhancement determinations, Davis made "an untrue statement of material fact" that was relied on by the Commission or the jurisdictional agency, *see* § 275.205(a)(1) and "omitted a statement of material fact necessary in order to make the statements made not misleading, in light of the circumstances under which they were made to the jurisdictional agency or the Commission." *See* § 275.205(a)(2).

CIG notes that one filing requirement in § 274.205(f) is a sworn statement by the producer that "[b]ut for the availability of a price at least as high as the renegotiated contract * * * the production enhancement work would not have been performed." *See* § 274.205(f)(7)(iii). Moreover, the purchaser must file a statement under oath that it has no knowledge of any information not described in the application which is inconsistent with the statements made in that application. *See* § 274.205(f)(8)(ii).

CIG contends that Davis entered into a contract amendment with the then-gatherer Baca which provides for a renegotiated production enhancement inventive price higher than that required to perform the production enhancement work. CIG argues that a clause in the renegotiated contract whereby Davis would collect the section 109 based ceiling price for gas from the subject wells, but would pay Baca one-half of the difference between the production enhancement incentive price and the otherwise applicable ceiling price as a "gathering and compression fee" makes the full incentive price unnecessary to perform the production enhancement work since the producer actually performed the work for one-half of the price increase. CIG also claims that an additional clause requiring Davis to refund to Baca any and all portions of the increased price that Baca is unable to pass on to CIG further indicates the lack of need for the increased revenues.[1]

[1] CIG also alleges that these clauses may constitute "an effort on the part of Baca to collect an otherwise impermissible gathering fee by improperly circumventing the Commission's Order Nos. 66 and 66-A and the related regulations." *See* §§ 270.202(c), 271.505, and 271.1104(b).

CIG contends that Colorado would not have been able to make the requisite finding necessary for affirmative well category determinations on the subject wells had the above facts been included in the record supplied by Davis. CIG's petition therefore requests that the Commission reopen and vacate the determinations and order any necessary refunds.

Because the well category determinations have become final, the Commission may reopen the determination, pursuant to § 275.205(a) of the regulations, if "(1) in making the determination the Commission or the jurisdictional agency relied on any untrue statement of material fact; or (2) there was omitted a statement of material fact necessary in order to make the statements made not misleading, in light of the circumstances under which they were made * * *."

Notice is hereby given that, in the event the subject determinations are reopened, the question of whether the Commission will require refunds, plus interest computed under § 154.102(d) of the regulations, is a matter subject to the review and final decision of the Commission.

Any person desiring to be heard or to make any protest to CIG's request to reopen should, within 30 days after this notice is published in the Federal Register, file with the Federal Energy Regulatory Commission, 825 North Capitol St. N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Rules of Practice and Procedure. All protests filed will be considered in determining the appropriate action to be taken, but will not make protestants' parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-342 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-199-000]

Columbus and Southern Ohio Electric Co.; Notice of Filing

December 29, 1982.

The filing Company submits the following:

Take notice that American Electric Power Service Corportion on behalf of its affiliate Columbus and Southern Ohio Electric Company (CSOE) tendered for filing on December 17, 1982, the following:

Agreement, dated December 1, 1982, among City of Columbus, Ohio, American Municipal Power-Ohio, Inc., and CSOE.

The Agreement sets forth terms pursuant to which CSOE proposes to supply Transmission Service to City of Columbus, Ohio.

The parties have requested a waiver of the Commission's Rules and Regulations to permit the proposed sale to become effective on less than 60 days notice.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-272 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-198-000]

Consumers Power Co.; Notice of Filing

December 29, 1982.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers) on December 17, 1982, tendered for filing Consumer's Revision of Fixed-Rate Factor to the Transmission, Ownership and Operating Agreement (Agreement) with Northern Michigan Electric Cooperative, Inc. (Northern) and Wolverine Electric Cooperative, Inc. (Wolverine) dated as of August 15, 1980.

Consumers states that the Agreement provides for the yearly redetermination of the fixed-charge factor used in determining monthly payments by Consumers Power to each cooperative for each cooperative's planned available transmission capacity. The computation of the redetermination of Consumer's annual fixed-charge factor for the calendar year 1982 will be computed in accordance with Section 6.3 of the Agreement.

Consumers requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served on Northern, Wolverine and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-273 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-100-000]

Container Corporation of America; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 29, 1982.

On December 14, 1982, Container Corporation of America, One First National Plaza, Chicago, Illinois 60603, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility prusuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is located in Fernandina Beach, Florida. The facility consists of five boilers and three steam turbine generators. The primary energy sources are coal, wood-waste and black liquor. The capacity of the facility is 108 megawatts. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of

this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-274 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA83-3-000]

Edgington Oil Company, Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

December 29, 1982.

Take notice that Edgington Oil Company, Inc. on December 23, 1982, filed a Petition for Review under 42 U.S.C. 7194(b) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a motion to intervene. However, any such person wishing to be a participant must file a notice of participation on or before January 12, 1983, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a motion to intervene on or before January 12, 1983, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.1005(c)).

A notice of participation or motion to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through the Office of General Counsel, the Assistant General Counsel for Regulatory Litigation, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-275 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-19-000]

El Paso Electric Co.; Notice of Application

December 29, 1982.

Take notice that on December 20, 1982, El Paso Electric Company (Applicant) filed a request with the Commission, pursuant to Section 204 of the Federal Power Act, requesting authorization to negotiate for the placement of up to 250,000 shares of Preferred Stock, no par value.

Any person desiring to be heard or to make any protest with reference to the application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.211 or 385.214 of the Commission's Rules of Practice and Procedure. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-276 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-191-000]

Mississippi Power Co.; Notice of Filing

December 29, 1982.

The filing Company submits the following:

Take notice that on December 13, 1982, Mississippi Power Company (Mississippi) tendered for filing a notice of cancellation of Supplement No. 4 to Rate Schedule FERC No. 25 between Mississippi and Municipal Energy agency of Mississippi (MEAM).

Mississippi proposes an effective date of November 30, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-277 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-194-000]

Mississippi Power Co.; Notice of Filing

December 29, 1982.

The filing Company submits the following:

Take notice that Mississippi Power Company (Mississippi) on December 15, 1982, tendered for filing a revision of the rates included in its FERC Electric Tariff, Original Volume Number 1. The revised rates would increase revenues from jurisidctional sales by $2,957,250 based on the 12-month period ending December 31, 1983. The charge per delivery point has been reduced, the KW and KWH charges increased.

Mississippi states that the estimates the rate of return on its properties devoted to serving the cooperative Electric Power Associations to be 9.44% from revenues which it would receive under the existing rates during the 12-month period ending December 31, 1983. Mississippi further states that such return would be increased to 11.88% with the increased revenue under the tendered rates.

Copies of the filing have been served upon the public utility's jurisdictional customers and Mississippi Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filling are on

file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-278 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-200-000]

Monongahela Power Co.; The Potomac Edison Co. and West Penn Power Co.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that on December 20, 1982, Allegheny Power Service Corporation tendered an Agreement concerning limited power service dated as of January 1, 1983 among Monongahela Power Company (Monongahela), The Potomac Edison Company (Potomac), West Penn Power Company (West Penn) and Public Service Electric and Gas Company (PSE&G).

The Agreement sets forth terms pursuant to which Monongahela, Potomac and West Penn will deliver to PSE&G 400,000 kilowatts of limited term capacity and energy for the period January 1, 1983 through December 31, 1983.

The parties have requested a waiver of the Commission's Rules and Regulations to permit the proposed sale to become effective on less than 60 days notice.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-343 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-201-000]

The Montana Power Co.; Notice of Filing

December 29, 1982.

The filing Company submits the following:

Take notice that on December 20, 1982, The Montana Power Co. (Montana), tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Montana and the Bonneville Power Administration (BPA).

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Public Law 96-501. The Agreement provides for the exchange of electric power between Montana and BPA for the benefit of Montana's residential and farm customers.

A copy of the filing was served upon BPA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-279 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-122-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Notice of Application

December 30, 1982.

Take notice that on December 10, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-122-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas for Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that pursuant to an exchange and transportation agreement dated September 24, 1982, it proposes the exchange of certain volumes of natural gas with Alabama-Tennessee and the transportation of such gas to Northern Illinois Gas Company (NI-Gas) for Alabama-Tennessee's account. The agreement provides for Northern to deliver up to 2,000,000 Mcf of exchange gas per year at Ogden, Iowa, for the account of Alabama-Tennessee. It is asserted that the volumes at Ogden would be the thermal equivalent to the volumes Alabama-Tennessee would cause Tennessee Gas Pipeline Company, a Division of Tenneco Inc., to deliver to United Gas Pipe Line Company at Centerville, Louisiana. Northern further proposes to transport the volumes delivered in exchange from Ogden, Iowa, to East Dubuque, Illinois, where said volumes would be redelivered to NI-Gas for Alabama-Tennessee's account. The volumes would then be injected underground for storage until withdrawn by Alabama-Tennessee, it is stated.

Northern and Alabama-Tennessee agree not to charge a fee related to the exchange of gas. The rate Northern proposes to charge Alabama-Tennessee for the transportation service from Ogden, Iowa, to East Dubuque, Illinois, would be derived from Northern's system-wide transmission cost of service component at the time the proposed service commences. Northern states that it would also receive 1 percent of all the gas delivered at East Dubuque as reimbursement for fuel and unaccounted-for gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-286 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP72-236-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Petition To Amend

December 30, 1982.

Take notice that on December 9, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP72-236-000 a petition to amend the order issued December 4, 1972,[1] in Docket No. CP72-236 pursuant to Section 7(c) of the Natural Gas Act so as to authorize a charge for Petitioner's compression of natural gas for Westar Transmission Company, a Division of Pioneer Corporation (Westar), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued December 4, 1972, it was authorized to provide a transportation service to Pioneer Natural Gas Company (Petitioner's parent) of up to 5,000 Mcf of gas per day from the West Wellman Field in Terry County, Texas. Petitioner further states that the gas transportation agreement pursuant to which this transportation of natural gas is being made provides that Petitioner can charge a compression fee if Petitioner elects to lower the gathering line pressure below 500 psig. Petitioner asserts that it has elected to compress below such level and to that effect installed a 320 horsepower compressor unit in 1981. Petitioner requests that the order issued December 4, 1972, be amended to authorize a charge for Petitioner's compressor service. Petitioner asserts that Westar would pay a compression fee of 13.0 cents per Mcf less its proportionate share of compressor fuel.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Jan. 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-287 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. ER83-195-000]

Northern States Power Co.; Notice of Filing

December 29, 1982.

The filing Company submits the following:

Take notice that on December 16, 1982, Northern States Power Company (NSP) tendered for filing Supplement No. 4 dated December 1, 1982 to the Twin Cities-Iowa-Omaha-Kansas City 345 kV Interconnection Coordinating Agreement executed with Interstate Power Company, Iowa Public Service Company, Omaha Public Power District, St. Joseph Light & Power Company, and Kansas City Power & Light Company.

NSP states that Supplement No. 4 increases the charges for Short-Term Power and System Participation Power.

NSP request an effective date of January 15, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-280 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-111-000]

Panhandle Eastern Pipe Line Co.; Notice of Application

December 30, 1982.

Take notice that on December 3, 1982, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP83-111-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Seward County Gas Company (Seward), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that Seward and Quinque Oil and Gas Production Company (Quinque) entered into a gas sales agreement dated July 30, 1982, which provides from Seward to buy up to 150 Mcf of gas per day from Quinque for three points in Seward County, Kansas. Applicant further states that Seward has requested that it transport such as on behalf of Seward from the point of receipt which are existing points of interconnection between Applicant and Quinque to a proposed point of interconnection between Applicant and Seward all in Seward County, Kansas.

Specifically Applicant requests authorization to implement a certain transportation agreement between Applicant and Seward dated July 30, 1982. Pursuant to this agreement Applicant proposes to transport for Seward up to 150 Mcf of gas per day on a firm basis. Applicant states that the transportation service would be initiated and the required facilities constructed and initially operated pursuant to Part 284 of the Commission's Regulations. Applicant asserts that the estimated cost of the facilities to be built by Applicant is $21,000 and that Seward

would reimburse Applicant for 50 percent of this cost up to a maximum of $9,000.

Applicant has proposed that the charge for the transportation service would be $183 per month with an excess or deficiency charge of 4.01 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Wahington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-288 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2814-002]

Paterson Municipal Utilities Authority; Application for Amendment of License

December 29, 1982.

Take notice that Paterson Municipal Utilities Authority (Licensee) of Paterson, New Jersey filed on December 13, 1982, an application for amendment of its license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for the Great Falls Hydroelectric Project located on the Passaic River in the City of Paterson, New Jersey. Correspondence with the Licensee should be directed to: Joseph C. Petriello, Paterson Municipal Utilities Authority, 100 Hamilton Plaza, Paterson, New Jersey 07505.

Licensee proposes to amend Article 30 of the license for the Great Falls Project issued March 11, 1981. Article 30 requires the Licensee to begin reconstruction of the hydroelectric project within two years from the effective date of the license. Licensee has requested that Article 30 be amended to require reconstruction work to begin within 4 years from the effective date. Additional time has been requested because of difficulties encountered in financing the project because of high interest rates. The Licensee expects more favorable market conditions to develop in 1983.

Anyone desiring to be heard or to make any protests about this application should file a motion to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be filed by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party or to participate in any hearings, a person must file a motion to intervene in accordance with the Commission's Rules. Any comments, protest, or motion to intervene must be received on or before February 9, 1983. The Commission's address is: 825 North Capitol Street, N.W., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-291 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-203-000]

Public Service Company of Indiana, Inc.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that Public Service Company of Indiana, Inc. (PSI) on December 20, 1982, tendered for filing a Modification to Rate Schedule FERC No. 232. Rate Schedule FERC No. 232 provides for the supply of the total electric requirements of the member systems of Wabash Valley Power Association, Inc. (WVPA).

On December 22, 1982, PSI will transfer to WVPA a proportionate ownership share of its Gibson Unit No. 5. On that date, WVPA will become a partial requirement customer of PSI and the modifications, as filed, will provide for the accounting and rate treatment of such transfer.

PSI has requested a waiver of the notice requirements in order that the modifications to Rate Schedule FERC No. 232 become effective on the designated date of the transfer.

Copies of the filing were served upon WAPA and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-344 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

Docket No. QF82-5-001]

Republic Geothermal, Inc.; Application for Modification of Certification of Qualifying Status of a Small Power Production Facility

December 29, 1982.

On November 29, 1982, Republic Geothermal, Inc. (RGI), 11823 East Slauson Avenue, Santa Fe Springs, California 90670, filed with the Federal Energy Regulatory Commission (Commission) an application for modification of certification of qualifying status of a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

By order of December 24, 1981, in Docket No. QF82-5-000, the Commission granted an Application for Certification of Qualifying Status filed by RGI. Under the original application RGI would have

been the sole owner and operator of the 49 megawatt geothermal small power production facility. RGI has requested the Commission to modify its order granting qualifying status to reflect a change in the ownership and operating arrangement. Under the new arrangement, the turbine, generator, switchgear and gathering lines will be owned and operated by a subsidiary of The Parsons Corporation (Parsons); the geothermal wells will be owned by a Parsons/RGI partnership which will also be vested with the lease hold interest in the geothermal resource.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-262 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2028-000]

Robert Allen Plane; Notice of Application

December 30, 1982.

The filing individual submits the following:

Take notice that on December 20, 1982, Robert Allen Plane filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, New York State Electric & Gas Corp.

Director, General Signal Corp.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-346 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP80-37]

Ringwood Gathering Co.; Notice of Two-Party Protest

December 30, 1982.

On December 3, 1982, Ringwood Gathering Company (Ringwood) filed with the Federal Energy Regulatory Commission (Commission), pursuant to § 154.94(j)(2) of the Commission's regulations, a protest to Union Texas Petroleum Corporation's (Union) claimed contractual authority to charge and collect the maximum lawful price under section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. IV 1980) for stripper well natural gas sold to Ringwood under Union's Rate Schedule 61.

Ringwood contends that the area rate clause voluntarily provided to Union by Ringwood in 1974 was not intended to provide for eventual payment of NGPA section 108 ceiling prices simply because of the availability of small daily volumes from a well.

Any person desiring to participate who is not already a party or participant in this proceeding shall file a petition to intervene, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 15 days after publication of the notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-345 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-6-000]

Southwestern Public Service Co. and New Mexico Electric Service Co.; Notice of Application

December 29, 1982.

The filing Company submits the following:

Take notice that on December 14, 1982, Southwestern Public Service Company (SPS) and New Mexico Electric Service Company (NME) filed an application seeking an order pursuant to Section 203 of the Federal Power Act authorizing the acquisition by SPS of the assets and electric utility business of NME.

SPS is an electric utility which serves areas contiguous to the area served by NME. NME is an electic utility providing service to the southern half of Lea County, New Mexico. SPS and NME are electrically interconnected.

Under the terms of the proposed acquisition, SPS would acquire all of NME's electric utility business in exchange for (i) 1,065,000 shares of SPS common stock, subject to adjustment for prospective changes in retained earnings of NME and (ii) the assumption, defeasance, or refunding by SPS of all liabilities of NME.

Upon consummation of the acquisition, SPS will continue to provide utility service to customers who reside within the area presently served by NME.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-289 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-91-000]

Superior Oil Co. and Superior Offshore Pipeline Co.; Notice of Application

December 30, 1982.

Take notice that on November 16, 1982, The Superior Oil Company (Superior), P.O. Box 1521, Houston, Texas 77001, and Superior Offshore Pipeline Company (SOPC), P.O. Box 1521, Houston, Texas 77001, jointly filed in Docket No. CP83-91-000 an application seeking: (1) A certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act to be issued to SOPC authorizing it to acquire and operate certain facilities and to transport natural gas, (2) permission and approval

pursuant to Section 7(b) of the Natural Gas Act for Superior to abandon and transfer facilities to SOPC, (3) authorization pursuant to § 284.107 of the Commission's Regulations to perform certain transportation services on a long-term basis, (4) waiver of certain reporting and accounting requirements, and (5) a blanket certificate pursuant to Section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for SOPC authorizing it to perform certain transportation of natural gas on behalf of other interstate pipelines. The subject proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

SOPC proposes to acquire from Superior, by transfer, Superior's West Cameron mainline, offshore Louisiana, consisting of the following:

(1) A 12-inch pipeline extending from Superior's platform in West Cameron Block 149 to Superior's West Cameron 72–4 platform,

(2) A 16-inch pipeline extending from Superior's West Cameron 72–4 platform onshore and to Superior's West Cameron reseperation and measurement station, and

(3) A 24-inch pipeline extending from Superior's West Cameron reseperation and measurement station and terminating at Superior's Lowry Gas processing plant.

SOPC further proposes to continue to provide transportation services for Michigan Wisconsin Pipe Line Company (Mich-Wis) and to provide long term transportation services for an interstate pipeline, Louisiana Resources Company (LRC), and other transportation services, under blanket authorization, for interstate pipelines purchasing natural gas supplies in and adjacent to the producing area traversed by the West Cameron Main Line.

SOPC petitions the Commission, pursuant to Rules 203 and 207 of the Commission's Rules of Practice and Procedure, for waiver and/or modification of the reporting and accounting requirements which would otherwise be applicable to it as a natural gas company in the following particulars:

(1) SOPC requests clarification that it is a Class C pipeline within the meaning of Part 204 of the Commission's Uniform System of Accounts Prescribed for Natural Gas Companies and that it be required to file FERC Form No. 2–A on an annual basis. Because SOPC would perform no services other than transportation, SOPC also requests a waiver which would permit it to continue to file FERC Form No. 2–A should its revenues increase to a level above the ceiling permitted to a Clas C pipeline.

(2) SOPC requests a declaration that SOPC has no obligation to file FERC Form No. 15 inasmuch as it would act only as a transporter of gas for others. Pursuant to Section 260.7(a) of the Commission's Approved Forms; Natural Gas Act SOPC would file in lieu of Form No. 15 an annual statement of gas transported by interstate pipelines for other interstate pipelines.

(3) Inasmuch as SOPC would not be a Class A pipeline, SOPC requests a declaration that it has no obligation to file annual system flow diagrams as specified in Section 260.8 of the Commission's Approved Forms; Natural Gas Act.

(4) SOPC requests specific waiver of any obligation to file FERC Form No. 8 inasmuch as it does not presently render or propose to render any underground storage service.

(5) SOPC requests waiver of obligation to file FERC Form No. 16 inasmuch as it does not propose to make any sales for resale in interstate commerce.

(6) SOPC requests waiver of any obligation to file EIA Form No. 50 (previously designated as FPC Form No. 69) inasmuch as it would make no direct sales in interstate commerce to customers consuming such gas.

(7) SOPC requests clarification from the Commission that it is obligated to keep its accounts in compliance with Part 204 of the Commission's Uniform System of Accounts Prescribed for Natural Gas Companies. Until such time, if ever, that SOPC seeks to implement a cost-based rate, SOPC requests waiver of this obligation in order that it may continue its present cost center accounting methodology.

Further, pursuant to §§ 154.61, *et seq.*, of the Commission's Regulations under the Natural Gas Act, SOPC submits its initial rate schedule establishing charges for the transportation service SOPC would perform relating to the natural gas sale from Superior to Mich-Wis. It is stated that under the terms of the rate schedule, Superior would pay to SOPC as the fee for the transportation service the applicable onshore delivery charge allowed by the Commission in conjunction with the sale. It is also stated that any charges for transportation services rendered to other interstate pipelines would be based upon the rate to be charged to Superior.

Superior also states that the proposed facilities are being acquired by SOPC as a contribution of capital by Superior in exchange for the entirety of SOPC's stock.

Further, SOPC proposes to render a long-term transportation service for LRC of up to 7,000 Mcf of gas per day from an input point on the West Cameron main line to the tailgate of Superior's Lowry plant. A proposed rate of 1.0 cent per Mcf would be charged for this service.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Superior and SOPC to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-290 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 405-015]

Susquehanna Power Co. and Philadelphia Electric Power Co.; Application for Change of Water Rights

December 29, 1982.

On November 17, 1981, the Susquehanna Power Company and the Philadelphia Electric Power Company (Licensees) filed an application for a change of water rights pursuant to Article 13 of the license for the Conowingo Project No. 405 issued on August 14, 1980.

The Licensees seek Commission approval of an agreement entered into by the Mayor and City Council of Baltimore, Maryland, the Licensees and their associated companies. This agreement is dated August 12, 1981, and was modified by a letter dated September 11, 1981. This agreement amends a previous agreement reached between the same parties on June 23, 1960, and approved by the Federal Power Commission on August 17, 1960.

This latest agreement provides that the City of Baltimore may withdraw from municipal purposes up to 250 million gallons of water per day from the project reservoir before permission must be obtained from the Licensees for further withdrawals.

No construction of any new facility would be required.

Any desiring to be heard or to make any protests about this application should file a motion to intervene or protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be filed by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party or to participate in any hearings, a person must file a motion to intervene in accordance with the Commission's Rules. Any comments, protest, or motion to intervene must be received on or before February 4, 1983. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-283 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-103-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Notice of Application

December 30, 1982.

Take notice that on November 23, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), filed in Docket No. CP83-103-000 an application pursuant to Section 3 of the Natural Gas Act for authorization to import from Canada on a best-efforts, interruptible basis, up to 84,000 Mcf of natural gas per day as more fully set forth in the application which is on file with the Commission and open to inspection.

Tennessee submits that the proposed importation of gas would pursuant to a gas purchase contract with Canadian-Montana Pipeline Company (Canadian-Montana). Tennessee proposes to import up to 84,000 Mcf of gas per day on an interim basis pending authorization to import up to 309,000 Mcf of gas per day which would be purchased from Canadian-Montana, KannGaz Producers Ltd., and Ocelot Industries Ltd.

Tennessee further states that the points of delivery for the gas being imported under the interim agreement would be the interconnection of the facilities of Tennessee and TransCanada PipeLines Ltd. (TransCanada) near Niagara, New York, or, at Tennessee's request the interconnection of another interstate pipeline system and TransCanada near Emerson, Manitoba. Should the Emerson delivery point be utilized, Tennessee states that self-implementing transportation arrangements with various pipelines would be utilized to move the gas to Tennessee's system.

Tennessee also states that under this proposed interim arrangement there would be no minimum obligations for Tennessee to take or pay for Canadian-Montana gas, that the price would be the price per million Btu's determined by the Government of Canada for gas exported to the U.S., and that Canadian-Montana has already received authorization from the National Energy Board of Canada to export and sell the above-described volumes to Tennessee at both the Emerson and Niagara delivery points.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-291 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-121-000]

Tennessee Gas Pipeline, a Division of Tenneco Inc., Midwestern Gas Transmission Co.; Notice of Application

December 30, 1982.

Take notice that on December 10, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP83-121-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) and the establishment of a new sales point for Alabama-Tennessee, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Alabama-Tennessee has entered into a storage agreement with Mid-Continent Gas Storage Company (Mid-Continent) wherein Mid-Continent has agreed to provide Alabama-Tennessee with an underground storage service utilizing storage fields located in northern Illinois.

In order to implement such storage agreement, it is asserted that Alabama-Tennessee would purchase for storage injection a portion of its contractual entitlement from Tennessee at a new sales delivery point at an existing interconnection between the pipeline facilities of Tennessee and United Gas Pipe Line Company located near Centerville, Louisiana. It is explained that Alabama-Tennessee and Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), would exchange equivalent volumes, the volumes purchased from Tennessee by Alabama-Tennessee at the Centerville interconnection becoming Northern's

while Northern would make available for Alabama-Tennessee's account equivalent volumes at Ogden, Iowa. It is stated that Northern would then transport and deliver such volumes for Alabama-Tennessee to Mid-Continent for Alabama-Tennessee's account at an existing Northern delivery point to Northern Illinois Gas Company (NI-Gas). Mid-Continent would accept such volumes for storage pursuant to its limited term storage leasing agreement with NI-Gas, it is explained.

It is asserted that on withdrawal Alabama-Tennessee would cause the withdrawal volumes to be made available to Midwestern for Alabama-Tennessee's account at Midwestern's existing sales delivery point to NI-Gas near Joliet, Illinois. Midwestern states that it would transport and deliver the withdrawal volumes to Tennessee at their systems' interconnection near Portland, Tennessee, for Alabama-Tennessee's account. Tennessee states that it would transport and make such withdrawal volumes available to Alabama-Tennessee at Tennessee's existing Barton sales delivery point to Alabama-Tennessee in Colbert County, Alabama. Tennessee and Midwestern request authorization to perform their responsibilities under this arrangement pursuant to the terms of precedent agreements dated October 4, 1982, and November 22, 1982, respectively.

Midwestern proposes to charge Alabama-Tennessee the product of 10.98 cents times the total volumes transported and made available by Midwestern to Tennessee for the account of Alabama-Tennessee. Tennessee proposes to charge 24.71 cents times the total volumes transported and made available to Alabama-Tennessee. Midwestern and Tennessee assert that those rates may be increased in accordance with current costs.

It is asserted that the proposed transportation of natural gas would assist Alabama-Tennessee in maintaining its system supply and in meeting high-priority requirements of its customers during the winter heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-292 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-112-000]

Valero Transmission Co.; Notice of Application

December 30, 1982.

Take notice that on December 3, 1982, Valero Transmission Company (Applicant), 530 McCullough Avenue, P.O. Box 500, San Antonio, Texas 78292, filed in Docket No. CP83-112-000 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act and § 284.127 of the Commission's Regulations for authorization to transport gas for El Paso Natural Gas Company (El Paso) for a period contemporaneous with the term of a gas purchase agreement between El Paso and Valero Interstate Transmission Company dated January 28, 1981, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that since March 6, 1981, it has been providing the transportation service for El Paso pursuant to Subpart C of Part 284 of the Commission's Regulations on a two-year limited-term basis which would terminate on March 6, 1983. An extension report has been filed in accordance with §§ 284.125 and 284.126(c) of the Commission's Regulations which requests a two-year extension of this self implementing authorization, it is explained.

Applicant states that its contract with El Paso requires it to transport up to 25,000 Mcf of gas per day from receipt points in Webb and Kleberg Counties, Texas, to a redelivery point in Pecos County, Texas, for a term of ten years and from year to year thereafter.

It is stated that initially, El Paso would pay Applicant 16.5 cents for each Mcf redelivered. This tariff would escalate ½ cent per Mcf each February 1 during the term of the transportation service, it is explained. It is further submitted that system fuel equivalent to ½ of 1 percent of the volume transported would be retained by Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-293 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF83-5131-000]

Western Area Power Administration; Notice of Filing

December 29, 1982.

The filing party submits the following:

Take notice that on November 30, 1982, the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy, by Rate Order No. WAPA-15, confirmed and approved on an interim basis, effective November 30, 1982, Rate Schedule RCP-1, a split-savings rate for sales of long term firm capacity with energy and seasonal or monthly firm capacity with energy from the Resource Coordination Program. The rate schedule shall remain in effect on an interim basis until final Commission action.

The interim rate schedule is submitted for confirmation and approval of this, or a substitute rate, on a final basis by the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-294 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF 83-5101-000]

Western Area Power Administration; Notice of Filing

December 29, 1982.

The filing agency submits the following:

Take notice that on December 13, 1982, the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy (the Assistant Secretary), by Rate Order No. WAPA-16, confirmed and approved on an interim basis, effective January 1, 1983, an extension of the current power rate for the Western Area Power Administration (Western) Falcon Project. The interim rate shall remain in effect until the date on which the Amistad Power plant is ready to deliver power, according to the Assistant Secretary.

Pursuant to the authority vested in the Commission by Delegation Order No. 0204-33, the rate is submitted for confirmation and approval on a final basis.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-295 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-202-000]

Wisconsin Electric Power Co.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on December 20, 1982, tendered for filing an Amendment, effective June 1, 1982, to the Interconnection Agreement between Wisconsin Electric and Northern States Power Company, a Minnesota corporation, (Northern States-Minnesota) and Northern States Power Company, a Wisconsin corporation, (Northern States-Wisconsin).

This amendment modifies Service Schedules A-Emergency Energy and C-Short Term Power of the Interconnection Agreement, dated November 18, 1965 to provide for revised rates for transactions under said service schedules, between Wisconsin Electric and Northern States-Wisconsin and Northern States-Minnesota. Said Interconnection Agreement is on file with the Commission and designated as Wisconsin Electric Rate Schedule FERC No. 28 and Northern States-Minnesota Rate Schedule FERC No. 319, and Northern States-Wisconsin Rate Schedule No. 39. Wisconsin Electric and Northern States-Minnesota and Northern States-Wisconsin maintain that it is not practical to estimate with any degree of accuracy the quanties of power and/or energy which will be exchanged under the applicable rates.

Wisconsin Electric states that copies of the filing were served upon Northern States-Minnesota, Northern States-Wisconsin, Public Service Commission of Wisconsin, and the Minnesota Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-348 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 3, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
						OHIO DEPARTMENT OF NATURAL RESOURCES			
-A & R COMPANY				RECEIVED:	11/29/82	JA: OH			
8311639		3416726486		108		CHAS D FOGLE TRUST #2 OH-45-3402	LAWRENCE	5.0	COLUMBIA GAS TRAN
8311640		3416726702		107-DV		RACHEL CARSON #1 OH-50-3701	GRANDVIEW	7.0	RIVER GAS CO
8311641		3416726703		108		RALPH CARSON #1 OH-49-3801	GRANDVIEW	0.0	RIVER GAS CO
-AMAC INC				RECEIVED:	11/29/82	JA: OH			
8311642		3416727272		108		DONALD RAUCH #1	MARIETTA	4.0	GAS TRANSPORT
-AMERICAN PETROEL INC				RECEIVED:	11/29/82	JA: OH			
8311643		3416726461		108		DREXEL PERRY #4	ADAMS	2.0	
-AMTEX OIL AND GAS INC				RECEIVED:	11/29/82	JA: OH			
8311644		3415122061		108		HINER #1		36.0	COLUMBIA GAS TRAN
8311645		3415122062		108		HINER #2		36.0	COLUMBIA GAS TRAN
-BARTLO OIL AND GAS COMPANY				RECEIVED:	11/29/82	JA: OH			
8311648		3415321251		108	107-TF	G MILLER UNIT #1	COPLEY	16.0	
8311646		3415323171		108	107-TF	HARVEST DEVELOPMENT #1	GRANGER	15.0	
8311647		3415321186		108	107-TF	WILEY UNIT #1	BATH	8.0	
-BELDEN & BLAKE & CO #79				RECEIVED:	11/29/82	JA: OH			
8311651		3415123732		108		MARVIN FRANK #2 - 1245	MARLBORO	36.5	
-BELDEN & BLAKE & CO 80				RECEIVED:	11/29/82	JA: OH			
8311649		3415921447		108	107-TF	L & M SPENCER #1-34-1218	GOSHEN	36.5	
8311650		3415123731		108	107-TF	R & R FISHER COMM #1-34-1246	NIMISHILLEN	36.5	
-BILL BLAIR INCORPORATED				RECEIVED:	11/29/82	JA: OH			
8311653		3412920909		108	107-TF	REICHENBACH #1	HANOVERTON	14.0	EAST OHIO GAS CO
8311654A		3412920913		108		SANOR #7	HANOVERTON	14.0	EAST OHIO GAS CO
83116548		3412920913	D	107-TF		SANOR #7	HANOVERTON	14.0	EAST OHIO GAS CO
-BLUE CREEK GAS COMPANY				RECEIVED:	11/29/82	JA: OH			
8311656		3410521424		107-DV		WAYNE HOBACK #1	LEBANON	20.0	COLUMBIA GAS TRAN
-CHANSE PETROLEUM CORPORATION				RECEIVED:	11/29/82	JA: OH			
8311657		3410721935		108	107-TF	FRED HODGE #1	NEW LYME	3.5	
-CHARLES L WOOD				RECEIVED:	11/29/82	JA: OH			
8311781		3405921084		108		REDOVIAN #1		2.0	COLUMBIS GAS TRAN
-CHARLES O LIGHTHIZER				RECEIVED:	11/29/82	JA: OH			
8311714		3411926183		107-TF		SKINNER #4	MADISON	6.0	COLUMBIA GAS TRAN
-COLLINS-MCGREGOR OPERATING COMPANY				RECEIVED:	11/29/82	JA: OH			
8311658A		3408924468		108		BINCKLEY B-3	HOPEWELL	2.0	NEWZANE GAS CO
83116588		3408924468	D	107-TF		BINCKLEY B-3	HOPEWELL	2.0	NEWZANE GAS CO
-CONTRACTORS SERVICE LEASING INC				RECEIVED:	11/29/82	JA: OH			
8311660		3412725443		107-TF		PHILO P-10	HARRISON	6.0	
8311661		3412725444		107-TF		PHILO P-11	HARRISON	7.5	
8311659		3412725437		107-TF		PHILO P-4	HARRISON	4.5	
-CUYAHOGA EXPLORATION & DEVELOPMENT				RECEIVED:	11/29/82	JA: OH			
8311663		3411122903		108		FRANK ROSE #1-13	WASHINGTON	20.2	

JD NO	JA DKT	API NO	D	SEC#1	SEC#2	WELL NAME	FIELD NAME	PROD	PURCHASER
8311662		3411122686		103		FRANK ROSE #2-13	WASHINGTON	24.1	
-DON MCKEE DRILLING CO INC				RECEIVED: 11/29/82 JA: OH					
8311721		3412725724		103		EARL LONG #1	ORRVILLE	10.0	NATIONAL GAS & OI
-DRILLEX INC				RECEIVED: 11/29/82 JA: OH					
8311664		3416520382		103	107-TF	TRESSER #8	PAINESVILLE	35.0	EAST OHIO GAS CO
-EARTH RESOURCES EXPL DEV CORP				RECEIVED: 11/29/82 JA: OH					
8311672		3415522098		103	107-TF	BERKHOUSE #1	BRISTOL	0.0	
8311665		3415522071		103	107-TF	HALL #1	BRISTOL	0.0	
8311666		3415522073		103	107-TF	KALISH #1	BRISTOL	0.0	
8311667		3415522075		103	107-TF	NOVICKI #1	BRISTOL	0.0	
8311671		3415522086		103	107-TF	SHIPMAN #1	BRISTOL	0.0	
8311668		3415522077		103	107-TF	ULRICH #1	BRISTOL	0.0	
8311669		3415522078		103	107-TF	WILLIAMS #1	BRISTOL	0.0	
8311670		3415522080		103	107-TF	WILSON #4	BRISTOL	0.0	
-EDCO DRILLING & PRODUCING INC				RECEIVED: 11/29/82 JA: OH					
8311674		3403123736		108		BICKEL SM-1A		18.0	COLUMBIA GAS TRAN
8311676		3403124201		108		CONNER BL-2A		18.0	COLUMBIA GAS TRAN
8311675		3403123769		108		CONNERS BL-1A		18.0	COLUMBIA GAS TRAN
8311677		3403124222		108		HOLESKI BL-2A		18.0	COLUMBIA GAS TRAN
8311673		3403123427		108		MCDONALD MO-1A		18.0	COLUMBIA GAS TRAN
-ELKHEAD GAS & OIL COMPANY				RECEIVED: 11/29/82 JA: OH					
8311678		3407322708		103		STRAIT #2	WASHINGTON	10.0	COLUMBIA GAS TRAN
8311679		3407322721		103		STRAIT #5	WASHINGTON	9.0	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED: 11/29/82 JA: OH					
8311681		3416320734		103	107-TF	G DAVIS #9	SWAN	27.3	COLUMBIA GAS TRAN
8311680		3405923343		103	107-TF	MID-OHIO COAL #25	RICHLAND	36.5	COLUMBIA GAS TRAN
-FORAKER PRODUCING COMPANY INC				RECEIVED: 11/29/82 JA: OH					
8311682		3408921859		103		HAYES #1	ROME	1.0	
8311683		3411924982		107-TF		NORMAN #1	NEWTON	20.0	
-FREDERICK PETROLEUM CORP				RECEIVED: 11/29/82 JA: OH					
8311684		3411122434		103		TUEL #1	JACKSON	55.0	
-FRONTIER PETROLEUM LTD				RECEIVED: 11/29/82 JA: OH					
8311685		3416726706		103		FRONTIER LOCAL SCHOOL DISTRICT #1	GRANDVIEW	10.0	RIVER GAS CO
-GREENLAND 81-1				RECEIVED: 11/29/82 JA: OH					
8311686		3407322552		107-TF		NORMAN/CASSELLS #2	STARR	20.0	COLUMBIA GAS TRAN
-HICKMAN ASSOCIATES #1				RECEIVED: 11/29/82 JA: OH					
8311687		3408924509		103		HICKMAN #1	FALLSBURY	6.0	NATIONAL GAS & OI
-J P WHITE				RECEIVED: 11/29/82 JA: OH					
8311780		3415520330		103	107-TF	JEWISH COMMUNITY CENTER #2	CLARIDON	0.0	COLUMBIA GAS TRAN
-JADOIL INC				RECEIVED: 11/29/82 JA: OH					
8311691		3407522019		107-TF		CHRIST & KATIE YODER #1	MECHANIC	30.0	EAST OHIO GAS CO
8311693		3408924402		103		GERALD & SYLVIA MCCLAIN #1	HANOVER	5.0	NATIONAL GAS & OI
8311690		3407521417		107-TF		LEVI N & ABIGAIL L YODER #1	CLARK	15.0	EAST OHIO GAS CO
8311692		3407522118		107-TF		MELVIN A & SUSIE RABER #1	CLARK	15.0	EAST OHIO GAS CO
8311689		3403124754		107-TF		PAUL & JOANNE NEWMAN #3	KILLBUCK	12.0	COLUMBIA GAS TRAN
-JAMES R BERNHARDT				RECEIVED: 11/29/82 JA: OH					
8311652		3410323117		103	107-TF	HAUTHAL-ALBERS #5	GRANGER	29.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED: 11/29/82 JA: OH					
8311726		3403124856		107-TF		ADEN N YODER UNIT #1-6209	NEW BEDFORD	4.0	COLUMBIA GAS TRAN
8311725		3403124347		107-TF		R MARTIN DAUGHERTY #3	NEW BEDFORD	2.0	COLUMBIA GAS TRAN
8311727		3403124867		107-TF		SAM E MAST #1-13A	NEW BEDFORD	2.0	COLUMBIA GAS TRAN
-JONSU OIL CORP				RECEIVED: 11/29/82 JA: OH					
8311694		3408924524		103		MCGUIRE #2	BOWLING GREEN	3.0	NATIONAL GAS & OI

JD NO	JA OKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-K S T OIL & GAS CO INC				RECEIVED: 11/29/82		JA: OH			
8311700		3415321174		103	107-TF	BLAIR #2	TWINSBURG	0.0	
8311702		3415321180		103	107-TF	CLEVETRUST #1	NORTHAMPTON	0.0	
8311701		3415321179		103	107-TF	CLEVETRUST #3	NORTHAMPTON	0.0	
8311703		3415321181		103	107-TF	CLEVETRUST #5	NORTHAMPTON	0.0	
8311697		3415321154		103	107-TF	FLETCHER #3	TWINSBURG	0.0	
8311706		3415321232		103	107-TF	HARRIS #1	TWINSBURG	0.0	
8311696		3415321123		103	107-TF	MARSICK #3	HUDSON	0.0	
8311704		3415321234		103	107-TF	PONDBROOK ESTATES #2	TWINSBURG	0.0	
8311705		3415321221		103	107-TF	PONDBROOK ESTATES #3	TWINSBURG	0.0	
8311699		3415321172		103	107-TF	TINKERS #4	TWINSBURG	0.0	
8311698		3415321171		103	107-TF	TINKERS INC #3	TWINBURG	0.0	
8311695		3415320621		103	107-TF	TROXELL #3	HUDSON	0.0	
-LANDPROVEST INC				RECEIVED: 11/29/82		JA: OH			
8311707		3405929407		107-TF		DICKINSON #1	BLOOMFIELD	25.0	
-LIBERTY OIL&GAS CORP				RECEIVED: 11/29/82		JA: OH			
8311713		3410522494		103		D E MILLER #2	OLIVE	18.0	COLUMBIA GAS TRAN
8311709		3410922598		103		FRANK GOEBEL #3	TROY	17.0	COLUMBIA GAS TRAN
8311711		3410522407		103		GARLAND CALDWELL #2	COOLVILLE	18.0	COLUMBIA GAS TRAN
8311710		3410522318		103		HARLESS-HAGAR #1	ORANGE	17.0	COLUMBIA GAS TRAN
8311708		3410922597		103		MOLLOHAN HEIRS #1	TROY	18.0	COLUMBIA GAS TRAN
8311712		3410522426		103		W R MANLEY #1	COOLVILLE	18.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED: 11/29/82		JA: OH			
8311715		3411926274		107-TF		RODGERS & ROSEN #15-L	BLUE ROCK	24.0	ROVI RESOURCES CO
8311716		3411926275		107-TF		RODGERS & ROSEN #16-L	BLUE ROCK	18.0	ROVI RESOURCE COR
8311717		3411926281		107-TF		RODGERS & ROSEN #22-L	BLUE ROCK	18.0	ROVI RESOURCES CO
8311718		3411926285		107-TF		RODGERS & ROSEN #26-L	BLUE ROCK	24.0	ROVI RESOURCES CO
-MAGNA-POWER LTD				RECEIVED: 11/29/82		JA: OH			
8311719		3416923178		103		MAGNA-POWER #1	EAST UNION	20.0	EAST OHIO GAS CO
8311720		3416923179		103		MAGNA-POWER #2	EAST UNION	25.0	EAST OHIO GAS CO
-MOHAWK SPARTA OIL CO				RECEIVED: 11/29/82		JA: OH			
8311725		3411122753		103		NALLEY #1	WASHINGTON	18.0	
-MONROE & KEUSINK INC				RECEIVED: 11/29/82		JA: OH			
8311724		3416923032		103		JAMES & MARY BLANCHARD #2	MILLWOOD NORTHWEST	12.0	COLUMBIA GAS TRAN
-MORMACK INDUSTRY INC				RECEIVED: 11/29/82		JA: OH			
8311729		3416922988		107-TF		CHARLES SHANE #2	MILTON	24.0	COLUMBIA GAS TRAN
8311728		3416922864		107-TF		JOSEPH GASSER #1	MILTON	24.0	COLUMBIA GAS TRAN
8311730		3416923189		107-TF		MARVIN DOTTERER #1A	MILTON	30.0	COLUMBIA GAS TRAN
-NATIONAL PETROLEUM CORP				RECEIVED: 11/29/82		JA: OH			
8311732		3411122416		103		E ACKERMAN JR #2	MALAGA	5.0	TEXAS EASTERN TRA
8311731		3411122069		103		R HESSIDENCE #1	SUMMIT	6.0	TEXAS EASTERN TRA
-OHIO PRODUCERS SERVICES INC				RECEIVED: 11/29/82		JA: OH			
8311733		3412724878		108		C & M COLLINS #1	READING TWP	5.0	COLUMBIA GAS TRAN
-OS AIR INC				RECEIVED: 11/29/82		JA: OH			
8311734		3408520378		103	107-TF	SCHULTZ #1	MENTOR	40.0	
-PAGE P BLAKEMORE				RECEIVED: 11/29/82		JA: OH			
8311655		3416724623		103		CORBETT #2	GRANDVIEW	25.0	COLUMBIA GAS TRAN
-PETROCON INC				RECEIVED: 11/29/82		JA: OH			
8311735		3415123782		103		BAIER UNIT #3	OSNABURG	75.0	
-PONDEROSA OIL COMPANY				RECEIVED: 11/29/82		JA: OH			
8311747		3416923350		107-TF		ABE J MILLER UNIT WELL #1	SALT CREEK	12.0	COLUMBIA GAS TRAN
8311743		3416923191		107-TF		DAN D MAST #1	SALT CREEK	12.0	COLUMBIA GAS TRAN
8311739		3416922794		103	107-TF	ELI J MAST WELL #1	SUGAR CREEK	10.0	COLUMBIA GAS TRAN

JD NO	JA OKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311744		3416923192		107-TF		ELI L MILLER WELL #1	SALT CREEK	10.0	COLUMBIA GAS TRAN
8311740		3416922795		103	107-TF	ELMER STEINER WELL #1	SUGAR CREEK	11.0	COLUMBIA GAS TRAN
8311745		3416923267		103	107-TF	HARLEN NEUENSCHWANDER WELL #1	SUGAR CREEK	11.0	COLUMBIA GAS TRAN
8311741		3416922796		103	107-TF	LELAND KRATZER WELL #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
8311742		3416922629		103	107-TF	LEVI SWARTZENTRUBER WELL #1	PAINT	12.0	COLUMBIA GAS TRAN
8311738		3416922793		103	107-TF	LLOYD LEHMAN WELL #1	SUGAR CREEK	10.0	COLUMBIA GAS TRAN
8311736		3416723079		103	107-TF	MARIE MAE SELDERS #1	SUGAR CREEK	11.0	COLUMBIA GAS TRAN
8311737		3416922792		107-TF		MERWYN BRENNER WELL #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
8311746		3416923268		103	107-TF	WILFRED NEUENSCHWANDER WELL #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
-POWER RESOURCES INC				RECEIVED:	11/29/82	JA: OH			
8311748		3415723782		103		CONOTTON LAND #15	WARREN	0.0	M B OPERATING CO
-QUAKER STATE OIL REFINING CORP				RECEIVED:	11/29/82	JA: OH			
8311749		3401921042		108		CRAMBLETT-BAIRD #3		0.3	MB OPERATING CO I
8311754		3407322699		103		SUNDAY CREEK COAL #40	WARD	29.2	COLUMBIA GAS TRAN
8311752		3407322667		103		SUNDAY CREEK COAL #43	WARD	19.4	COLUMBIA GAS TRAN
8311751		3407322651		103		SUNDAY CREEK COAL #44	WARD	11.0	COLUMBIA GAS TRAN
8311750		3407322635		103		SUNDAY CREEK COAL #49	WARD	5.5	COLUMBIA GAS TRAN
8311753		3407322670		103		SUNDAY CREEK COAL #63	WARD	5.5	COLUMBIA GAS TRAN
-R & M WELL SERVICE CO				RECEIVED:	11/29/82	JA: OH			
8311755		3408720315		103		JOHN NELSON #1	LAWRENCE	0.0	COLUMBIA GAS TRAN
-REPUBLIC STEEL CORP				RECEIVED:	11/29/82	JA: OH			
8311758		3411925860		103	107-TF	CONSOLIDATION COAL CR #10	WASHINGTON	6.0	TENNECO
8311759		3411925863		103	107-TF	CONSOLIDATION COAL CR #16	WASHINGTON	8.0	TENNECO
8311761		3411926252		103	107-TF	CONSOLIDATION COAL CR #32	MADISON	7.0	TENNECO
8311762		3411926320		103	107-TF	CONSOLIDATION COAL CR #36	MADISON	6.0	TENNECO
8311756		3411925734		103	107-TF	CONSOLIDATION COAL CR #4	SALEM	8.5	TENNECO
8311757		3411925821		103	107-TF	CONSOLIDATION COAL CR #7	WASHINGTON	8.0	TENNECO
8311760		3411926035		103	107-TF	CONSOLIDATION COAL CR#13	SALEM	6.5	TENNECO
-SOUTHERN TRIANGLE OIL CO INC				RECEIVED:	11/29/82	JA: OH			
8311764		3405921012		108		KIRTLEY #1		11.2	COLUMBIA GAS TRAN
8311763		3405920961		108		MCDONALD-STILLION #1		4.7	COLUMBIA GAS TRAN
-STARK OILFIELD SERVICES INC				RECEIVED:	11/29/82	JA: OH			
8311765		3406720326		108		LOVEY #1	LENOX	0.0	EAST OHIO GAS CO
8311766		3406720397		108		ZACK #1	LENOX	2.0	EAST OHIO GAS CO
-STRATA CORP				RECEIVED:	11/29/82	JA: OH			
8311767		3409223681		103		R WILLIAMS #1	LODI	10.0	
-TIGER OIL INC				RECEIVED:	11/29/82	JA: OH			
8311768		3411122636		107-DV		M SHEETS #3	WASHINGTON	5.0	COLUMBIA GAS TRAN
8311769		3412725730		103		R JONES #1	HOPEWELL	5.0	COLUMBIA GAS TRAN
-TOWNER PETROLEUM CO				RECEIVED:	11/29/82	JA: OH			
8311771		3415923659		103	107-TF	BONIPHANT L #1	LONDONDERRY	27.0	TENNESSEE GAS PIP
-TRUMBULL RESOURCES				RECEIVED:	11/29/82	JA: OH			
8311772		3415522163		103	107-TF	SIMON #3	VIENNA	39.0	
-UNITED PETROLEUM CORP				RECEIVED:	11/29/82	JA: OH			
8311774		3409923787		107-RT		MARTY SHAFFER #1	GOSHEN	28.0	YANKEE RESOURCES
8311773		3409923785		107-RT		RUTHRAUFF-SHAFFER #1	GOSHEN	28.0	YANKEE RESOURCES
-VICTOR MCKENZIE				RECEIVED:	11/29/82	JA: OH			
8311722		3412725695		103		CHARLES HENDERSON #1	HOPEWELL	0.0	
-VICTOR PETROLEUM CORP				RECEIVED:	11/29/82	JA: OH			
8311775		3407523833		103	107-TF	AB D TROYER #1	CLARK	20.0	COLUMBIA GAS TRAN
-VIKING RESOURCES CORP				RECEIVED:	11/29/82	JA: OH			
8311779		3408520389		103	107-TF	BREWSTER #3	PERRY	30.0	
8311776		3408520339		103	107-TF	BROWN #2	PERRY	30.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311777		3408520351		103	107-TF	KLYN #1	PERRY	30.0	
8311778		3408520353		103	107-TF	KLYN #3	PERRY	30.0	
-WILLIAM F HILL				RECEIVED: 11/29/82		JA: OH			
8311688		3407523786		103		WAYNE E LEININGER #1	KNOX	8.0	
-WILLIAM N TIPKA				RECEIVED: 11/29/82		JA: OH			
8311770		3415723652		103	107-TF	MARVIN DAVIDSON #5	GASHEN	0.0	
-WOODLAND OIL & GAS CO				RECEIVED: 11/29/82		JA: OH			
8311782		3416700797		108		JERRY GRAHAM #1		0.8	RIVER GAS CO
8311783		3416700798		108		JERRY GRAHAM #2		0.8	RIVER GAS CO
8311784		3416700799		108		JERRY GRAHAM #3		0.8	RIVER GAS CO
8311785		3416700800		108		JERRY GRAHAM #4		0.8	RIVER GAS CO
-ZENITH OIL & GAS INC				RECEIVED: 11/29/82		JA: OH			
8311786		3411924983		103		MCKEE #1	NASHPORT	1.5	NATIONAL GAS & OI
8311788		3411925406		103		MCKEE #2	NASHPORT	1.5	NATIONAL GAS & OI
8311787		3411925359		103		WHEELER-MCKEE #1	NASHPORT	1.5	NATIONAL GAS & OI

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OKLAHOMA CORPORATION COMMISSION

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-A & P DRILLING CO INC				RECEIVED: 11/29/82		JA: OK			
8311623	17753	3507300000		103		FOPP #1	SOONER TREND	0.0	CONOCO INC
-ADAMS PETROLEUM ENTERPRISES CORP				RECEIVED: 11/29/82		JA: OK			
8311576	17906	3506321311		103		BACKSTABBER #1	GREASY CREEK	219.0	TRANSOK PIPE LINE
-AMERICAN ENERGY CORP				RECEIVED: 11/29/82		JA: OK			
8311588	17458	3512321413		102-2	103	KTSU #3-21		67.2	ARKANSAS LOUISIAN
-AMOCO PRODUCTION CO				RECEIVED: 11/29/82		JA: OK			
8311600	21347	3512900000		107-PE		F M SMITH UNIT #1	WEST DURHAM	160.0	DELHI GAS PIPELIN
8311601	21345	3512900000		107-PE		KELLER UNIT #1	WEST DURHAM	60.0	DELHI GAS PIPELIN
8311602	21344	3512900000		107-PE		STRICKLAND UNIT #1	WEST DURHAM	125.0	DELHI GAS PIPELIN
-ANDOVER OIL COMPANY				RECEIVED: 11/29/82		JA: OK			
8311620	17791	3501722254		103		PIATT #15-1		0.0	PHILLIPS PETROLEU
8311609	17729	3501722016		102-4		PORTER #32-1		180.0	DELHI GAS PIPELIN
-ATLAS OIL INC				RECEIVED: 11/29/82		JA: OK			
8311598	14474	3506321787		102-2		COMMISSIONERS OF LAND OFFICE 1-34	WEST GUTHRIE FIELD	50.0	EASON OIL CO
-BURKHART PETROLEUM CORP				RECEIVED: 11/29/82		JA: OK			
8311589	16712	3508720617		103		LAMAR 1-16	WASHINGTON	15.0	SUN EXPLORATION &
-CAYMAN EXPLORATION CORP				RECEIVED: 11/29/82		JA: OK			
8311610	17638	3507323412		103		TOMMY J GLAZIER #6-1	SOONER TREND	36.0	CITIES SERVICE GA
-CITIES SERVICE COMPANY				RECEIVED: 11/29/82		JA: OK			
8311574	17961	3508720601		103		DACUS A #2	GOLDEN TREND (BRADLEY	108.9	CITIES SERVICE GA
8311575	17962	3508720601		103		DACUS A #2	GOLDEN TREND (BRADLEY	60.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED: 11/29/82		JA: OK			
8311569	17951	3507323516		103		MURROW 29-1	SOONER TREND	110.0	CONOCO INC
8311570	17952	3507323577		103		RUTH 21-2	SOONER TREND	85.0	CONOCO INC
8311594	14949	3507323862		102-4		YEOMAN 19-1(LOWER)	SOONER TREND	90.0	CONOCO INC
-CLIFFORD RESOURCES INC				RECEIVED: 11/29/82		JA: OK			
8311568	17942	3507323001		103		MCALLISTER #1-24	SOONER TREND	1.5	PHILLIPS PETROLEU
-COQUINA OIL CORPORATION				RECEIVED: 11/29/82		JA: OK			
8311579	17921	3501321409		103		HOFFMAN #1	UNDESIGNATED	146.0	ARCO OIL & GAS CO
-CROUCH PETROLEUM COMPANY				RECEIVED: 11/29/82		JA: OK			
8311613	17439	3509120434		103		MARTIN #7	S E CHECOTAH	18.0	COLUMBIA GAS TRAN
-DAVIS OIL COMPANY				RECEIVED: 11/29/82		JA: OK			
8311621	17788	3501721714		103		LAUB #1	FORT RENO	0.0	PHILLIPS PETROLEU
-DOME PETROLEUM CORP				RECEIVED: 11/29/82		JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311618	15595	3515320622		103		STOUT #1	NORTH MOORELAND	365.0	PANHANDLE EASTERN
-EARLSBORO OIL AND GAS CO INC				RECEIVED:	11/29/82	JA: OK			
8311596	15577	3504721615		103		LEO BRINKER #1-21	SOONER TREND	300.0	UNION TEXAS PETRO
-EARTH ENERGY RESOURCES INC				RECEIVED:	11/29/82	JA: OK			
8311616	16924	3511900000		103		RANDOLPH #2	SOUTH MEHAN	25.0	CITIES SERVICE GA
-FAY C WOOD				RECEIVED:	11/29/82	JA: OK			
8311614	17211	3511900000		103		THOMPSON #6	SOONER TREND	0.0	ENTERPRISE DEVELO
-GRACE PETROLEUM CORPORATION				RECEIVED:	11/29/82	JA: OK			
8311593	15345	3505120162		108		ASBURY 15-1	E AMBER	14.0	MOBIL OIL CORP
-GUARDIAN OIL CO				RECEIVED:	11/29/82	JA: OK			
8311619	15493	3512120399		103		SANDERS #1-21	NORTHWEST REAMS FIELD	275.0	ARKANSAS LOUISIAN
-HINKLE ENGINEERING INC				RECEIVED:	11/29/82	JA: OK			
8311564	17784	3508321937		103		JONES #1	SOONER TREND	82.0	EASON OIL CO
-HPC INC				RECEIVED:	11/29/82	JA: OK			
8311590	16820	3501720723		103		CROUCH #1	N CALUMET	0.0	PHILLIPS PETROLEU
-J M HUBER CORPORATION				RECEIVED:	11/29/82	JA: OK			
8311599	12704	3508700010		108-SA		LIGHT "B" #1	LIGHT FIELD	16.0	PANHANDLE EASTERN
-JAKE L HAMON				RECEIVED:	11/29/82	JA: OK			
8311615	16991	3504321875		103		COLE #1-5	CESTOS - MORROW "C"	91.0	PANHANDLE EASTERN
-JET OIL COMPANY				RECEIVED:	11/29/82	JA: OK			
8311584	17603	3514722757		103		BIBY #2	ELKHORN	0.0	EASON OIL CO
8311583	17607	3504722532		103		PHARES "C" #1	WILSON	0.0	EASON OIL CO
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	11/29/82	JA: OK			
8311617	16819	3514721059		108-ER		FLOYD #1-2	W SPRING VALLEY	24.0	GRACE PETROLEUM C
8311597	14334	3504720934		108-ER		SCHROEDER EST #1-23	SPRING VALLEY	24.0	GRACE PETROLEUM C
-LADD PETROLEUM CORPORATION				RECEIVED:	11/29/82	JA: OK			
8311573	17959	3509322297		103		WIENS "B" #2 (MISSISSIPPI)	OKEENE NW	68.4	OKLAHOMA NATURAL
-MAJOR OIL CORP				RECEIVED:	11/29/82	JA: OK			
8311587	17535	3509322337		103		RINGWOOD #1	RINGWOOD	75.0	PIONEER GAS PRODU
-MAY PETROLEUM INC				RECEIVED:	11/29/82	JA: OK			
8311612	17536	3505120697		103		ROSS #1	WATONGA-CHICKASHA TRE	18.3	ARKANSAS LOUISIAN
-NEWBOURNE OIL COMPANY				RECEIVED:	11/29/82	JA: OK			
8311622	17757	3510722325		103		BARNES "14" #1	BALKO (BASAL CHESTER)	200.0	TRANSWESTERN PIPE
-MORAN EXPLORATION INC				RECEIVED:	11/29/82	JA: OK			
8311605	18588	3501722253		102-2		FRY #2	SOUTHWEST YUKON	0.0	PHILLIPS PETROLEU
8311607	18586	3501721802		102-2		JAY #1	SOUTHWEST YUKON	0.0	PHILLIPS PETROLEU
8311606	18597	3501721801		102-2		KIRKEGARD #1	YUKON	0.0	PHILLIPS PETROLEU
8311604	18589	3501721803		102-2		SULLIVAN #1	YUKON	0.0	PHILLIPS PETROLEU
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	11/29/82	JA: OK			
8311603	21841	3508920422		107-DP		ROBERTSON #1		1918.4	DELHI GAS PIPELIN
-NOVA ENERGY CORPORATION				RECEIVED:	11/29/82	JA: OK			
8311595		3502720547		103		POLK #1-11	SW CORN	0.0	SUN GAS CO
-OXXO INC				RECEIVED:	11/29/82	JA: OK			
8311585	17591	3513300001		102-3	103	REYNOLDS #1		1086.6	
8311586	17590	3513321784		102-3	103	REYNOLDS #2		372.4	
-PLAINS PRODUCTION INC				RECEIVED:	11/29/82	JA: OK			
8311582	17610	3510523463		103		GLASS ESTATE #1	WOODY	25.0	ENICO PIPELINE CO
8311581	17613	3510524901		103		GLASS ESTATE #5	WOODY	0.0	ENICO PIPELINE CO
8311566	17614	3510524908		103		GLASS ESTATE #6	WOODY	25.0	ENICO PIPELINE CO
8311567	17615	3510524909		103		GLASS ESTATE #7	WOODY	25.0	ENICO PIPELINE CO
8311565	17621	3510524904		103		JORDAN #2		25.0	ENICO PIPELINE CO
8311611	17618	3510525555		103		JORDAN #4 (BD)	WOODY	25.0	ENICO PIPELINE CO
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:	11/29/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311592	15866	3501722153		103		HIGDON #1	EAST YUKON	109.0	CONOCO INC
8311580	17924	3501722246		103		LISA RA ANN #1	YUKON	91.3	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	11/29/82	JA: OK			
8311577	17919	3501522423		103		LITTLE GREEN "B" #2	S W ENVILLE	93.0	CIMARRON TRANSMIS
8311578	17920	3501733021		103		MARY JEAN YOUNG #1	OKARCHE NE	143.0	CONOCO INC
-TRANSIERRA EXPLORATION CORP				RECEIVED:	11/29/82	JA: OK			
8311571	17955	3510321570		103		EMMA HENTGES #1	TRANSIERRA-CINNAMON	51.0	AMINOIL USA INC
8311572	17956	3514723027		103		STATE SCHOOL LAND (LONG) #2	GARBER FIELD	47.6	ARCO OIL & GAS CO
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	11/29/82	JA: OK			
8311591	16769	3509522381		103		HENNEKE #1-9	NORTHEAST AMES	42.0	UNION TEXAS PETRO
8311608	17746	3509522362		102-2	103	WHITE #1-27	EAST CHESTER	219.0	PHILLIPS PETROLEU
UTAH DIVISION OF OIL,GAS, & MINING									
-AMOCO PRODUCTION CO				RECEIVED:	07/25/82	JA: UT			
8311632	K-121-11	4304333136		102-2		CHAMPLIN 458 AMOCO D #2	ANSCHUTZ RANCH EAST -	30.0	
-AMOCO PRODUCTION CO				RECEIVED:	11/07/82	JA: UT			
8311631	K-121-3	4304330109		102-2		ISLAND RANCHING "B" #1	ANSCHUTZ RANCH	554.0	COLORADO INTERSTA
VIRGINIA DEPARTMENT OF LABOR & INDUSTRY									
-ASHLAND EXPLORATION INC				RECEIVED:	11/26/82	JA: VA			
8311638		4502719974		108-SA		CLINCHFIELD COAL CORP #4		0.0	CONSOLIDATED GAS
-PHILADELPHIA OIL COMPANY				RECEIVED:	11/26/82	JA: VA			
8311637		4505119826		107-TF		JOHN S ROSE # P-136D	NORA	101.6	KENTUCKY WEST VIR
8311634		4505120166		107-TF		JOSEPH KELLY - #P-20	NORA	38.7	KENTUCKY WEST VIR
8311633		4505120397		107-TF		W H ASTON - #P-122	NORA	18.5	KENTUCKY WEST VIR
8311635		4505120464		107-TF		WILMA C HELTON # P-123	NORA	107.7	KENTUCKY WEST VIR
8311636		4505120462		107-TF		WILMA C HELTON # P-124	NORA	35.8	KENTUCKY WEST VIR
WEST VIRGINIA DEPARTMENT OF MINES									
-JANICE E BROWN				RECEIVED:	11/29/82	JA: WV			
8311625		4703501180		108		BUFFINGTON #1	CENTER STAR BEREA	9.0	GAS TRANSPORT INC
8311628		4703501181		108		BUFFINGTON B-1	CENTER STAR BEREA	2.0	GAS TRANSPORT INC
8311624		4703501178		108		MEEKER #1	CENTER STAR BEREA	5.0	GAS TRANSPORT INC
8311629		4703501107		108		MICHAEL B-1	CENTER STAR BEREA	2.0	GAS TRANSPORT INC
8311626		4703501195		108		RARDIN #1	CENTER STAR BEREA	6.0	GAS TRANSPORT INC
8311627		4703501100		108		TIANO #1	CENTER STAR BEREA	1.0	GAS TRANSPORT INC
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
-AMERICAN RESOURCES MANAGEMENT CORPO				RECEIVED:	11/25/82	JA: CO 1			
8311630		0574506318		107-TF		C C 34-2	696 FEL 3479 FSL SEC	72.0	NORTHWEST PIPELIN

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4838, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-349 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-TXO PRODUCTION CORP				RECEIVED:	11/29/82	JA: KS			
8311340	K-81-1236	1507720639		102-4		MUIR "D" #1	ZUERCHER	109.5	DELHI CORP
8311339	K-81-1235	1507720707		102-4		ZUERCHER #3	ZUERCHER	109.5	DELHI CORP
NORTH DAKOTA INDUSTRIAL COMMISSION									
-AMERADA HESS CORPORATION				RECEIVED:	11/26/82	JA: ND			
8311480	642	3305301696		108		HAWKEYE MADISON UNIT #E609	HAWKEYE	8.1	MONTANA DAKOTA UT
8311481	643	3305301000		108		TIOGA MADISON UNIT #I133	TIOGA	5.6	MONTANA DAKOTA UT
8311482	644	3305101000		108		TIOGA MADISON UNIT M129	TIOGA	1.6	MONTANA DAKOTA UT
-ESTATE OF H L HUNT				RECEIVED:	11/26/82	JA: ND			
8311478	640	3310500790		102-4		PRICE #1-D	GRENORA	43.0	PHILLIPS PETROLEU
-PENNZOIL COMPANY				RECEIVED:	11/26/82	JA: ND			
8311479	641	3305300932		102-3		LITTLE TANK #19-218N	WILDCAT	23.9	TRUE OIL CO
-RANGER OIL CO				RECEIVED:	11/26/82	JA: ND			
8311476	638	3305301314		102-4		WOLLAN #8-15	BERG FIELD	36.0	AMINOIL USA INC
-TEXACO INC				RECEIVED:	11/26/82	JA: ND			
8311477	639	3305301237		102-3		C M LOOMER #13	BLUE BUTTES	172.3	MONTANA DAKOTA UT
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-ALPHA TWENTY-ONE PRODUCTION CO				RECEIVED:	11/26/82	JA: NM			
8311337		3002527710		103		TONI #2	NADINE DRINKARD ABO	50.0	PHILLIPS PETROLEU
-AMERADA HESS CORPORATION				RECEIVED:	11/26/82	JA: NM			
8311345		3002500000		108		SARAH PHILLIPS #1	EUMONT	9.3	WARREN PETROLEUM
-ARCO OIL AND GAS COMPANY				RECEIVED:	11/26/82	JA: NM			
8311346		3001523547		103		EMPIRE ABO UNIT "J" WELL #241	EMPIRE ABO	24.0	PHILLIPS PETROLEU
8311347		3001523548		103		EMPIRE ABO UNIT "K" WELL #211	EMPIRE ABO	100.0	PHILLIPS PETROLEU
8311329		3002526107		108		SINCLAIR STATE #2	EUMONT (YATES 7 RV QN	3.0	PHILLIPS PETROLEU
-GULF OIL CORPORATION				RECEIVED:	11/26/82	JA: NM			
8311332		3002504759		108		HARRY LEONARD (NCT-A) #6	EUMONT	6.3	PHILLIPS PETROLEU
8311333		3002504401		108		R R BELL (NCT-I) #1	EUMONT	5.4	PHILLIPS PETROLEU
8311344		3002506288		108		SUNSHINE #1	EUNICE MONUMENT	8.8	PHILLIPS PETROLEU
-HONDO OIL & GAS COMPANY				RECEIVED:	11/26/82	JA: NM			
8311341		3001524005		102-4		FEATHERSTONE STATE #1	UNDESIGNATED MORROW	1825.0	CABOT PIPELINE CO
-INTERNORTH INC				RECEIVED:	11/26/82	JA: NM			
8311336		3001523587		102-4		POKER LAKE "32" - 1	SAND DUNES W	29.0	INTERNORTH INC
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	11/26/82	JA: NM			
8311331		3002510446		108		SIMS #4	DRINKARD	19.0	EL PASO NATURAL G
8311338		3002527768		103		SIMS #8	WANTZ GRANITE WASH	46.0	GETTY OIL CO
-POGO PRODUCING COMPANY				RECEIVED:	11/26/82	JA: NM			

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311342		3002500003	102-4		NBR #2	BOOTLEG RIDGE MORROW	255.0	LLANO INC
-WARREN PETR CO A DIV OF GULF OIL CO RECEIVED: 11/26/82 JA: NM								
8311345		3002527527	108		H T MATTERN (NCT-C) #15	BLINEBRY	0.0	EL PASO NATURAL G
8311335	81610	3002508763	108		HARRY LEONARD (NCT-D) #12	EUNICE SOUTH	0.0	EL PASO NATURAL G
8311334	81610	3002508755	108		HARRY LEONARD (NCT-D) #4	EUNICE SOUTH	6.1	EL PASO NATURAL G
-WOOD MCSHANE & THAMS RECEIVED: 11/26/82 JA: NM								
8311330		3002526103	108		LINEBERY #1	RHODES POOL	18.3	EL PASO NATURAL G

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NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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-AMERICAN PENN ENERGY INC RECEIVED: 11/29/82 JA: NY								
8311548	2741	3101316226	107-TF		STATE REFORESTATION AREA 11 (1514)	STEBBINS CORNERS	0.0	COLUMBIA GAS TRAN
8311547	2739	3101316222	107-TF		STATE REFORESTATION AREA 2 #1510	STEBBINS CORNERS	10.0	COLUMBIA GAS TRAN
-BOUNTY OIL & GAS INC RECEIVED: 11/29/82 JA: NY								
8311525	3072	3101316546	107-TF		E SITTERLEY UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8311526	3074	3101316544	107-TF		LAWSON UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8311524	3076	3101316583	107-TF		LONG UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
-ENVIROGAS INC RECEIVED: 11/29/82 JA: NY								
8311553	2459	3101316215	107-TF		A GOGGIN #1	CLYMER	18.0	COLUMBIA GAS TRAN
8311562	2684	3101316594	107-TF		A WENGERD #1	CLYMER	18.0	COLUMBIA GAS TRAN
8311558	2676	3101316794	107-TF		C DAMCOTT #1	CLYMER	18.0	COLUMBIA GAS TRAN
8311552	2453	3101315506	107-TF		F HOWARD #1	WILDCAT	18.0	NATIONAL FUEL GAS
8311557	2674	3101316596	107-TF		J FAULKNER #2	CLYMER	18.0	COLUMBIA GAS TRAN
8311559	2678	3101316403	107-TF		LEGTERS BROS #2	CLYMER	18.0	COLUMBIA GAS TRAN
8311537	2691	3101316404	107-TF		LEGTERS BROS #3	CLYMER	18.0	COLUMBIA GAS TRAN
8311560	2680	3101316625	107-TF		N HOGENBOOM #1-A	CLYMER	18.0	COLUMBIA GAS TRAN
8311538	2688	3101316321	107-TF		N Y S REF AREA #3/WELL #10	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8311561	2682	3101316356	107-TF		N Y S REF AREA #3/WELL #12	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8311554	2461	3101316357	107-TF		N Y S REFORESTATION AREA 3/ #11	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8311551	2457	3101316381	107-TF		R AMBROSE #2	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8311535	2692	3101316616	107-TF		R BECKERINK #1	CLYMER	18.0	COLUMBIA GAS TRAN
8311555	2463	3101316571	107-TF		R ROHM #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8311556	2465	3101316294	107-TF		R WASSINK #6	CLYMER	18.0	COLUMBIA GAS TRAN
8311536	2694	3101316436	107-TF		V LEGTERS #1	CLYMER	18.0	COLUMBIA GAS TRAN
8311550	2544	3101316007	107-TF		V LICTUS #1	CLYMER	18.0	COLUMBIA GAS TRAN
8311563	2686	3101315893	107-TF		X WASSINK #1	CLYMER	18.0	COLUMBIA GAS TRAN
-POI ENERGY INC RECEIVED: 11/29/82 JA: NY								
8311523	3152	3101315447	107-TF		LAWRENCE #1		75.0	COLUMBIA GAS TRAN
8311520	3149	3101315450	107-TF		PAUL SAMUELSON #1		50.0	COLUMBIA GAS TRAN
8311521	3150	3101316044	107-TF		PETERSON #1		250.0	COLUMBIA GAS TRAN
8311522	3151	3101315451	107-TF		PHIL SAMUELSON #1		75.0	COLUMBIA GAS TRAN
8311519	3148	3101315449	107-TF		SKILLMAN #1		20.0	COLUMBIA GAS TRAN
-TRAHAN PETROLEUM INC RECEIVED: 11/29/82 JA: NY								
8311534	2467	3101316092	107-TF		A & H BASCHMANN #1 31-013-16092	KENNEDY	36.0	COLUMBIA GAS TRAN
8311528	2503	3101316319	107-TF		A & M MILLER #1 31-013-16319	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311531	2473	3101312519	107-TF		CARL H MILLER NY #23	LEON	36.0	COLUMBIA GAS TRAN
8311546	2635	3101316460	107-TF		CONDON NY #4 31-013-16460	WILDCAT	36.0	COLUMBIA GAS TRAN
8311530	2501	3101316467	107-TF		E & M BENTLEY #1 31-013-16467	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311541	2537	3101316093	107-TF		G & L DARLING #2 31-013-16093	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311527	2471	3101316318	107-TF		G & M FOX #1 31-013-16318	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311540	2539	3101315468	107-TF		H & L REYNOLDS #1 31-013-16468	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311529	2469	3101315743	107-TF		J & R FALCONE #1 31-013-15743	WILDCAT	36.0	COLUMBIA GAS TRAN
8311542	2531	3101316469	107-TF		J & R FALCONE #2 31-013-16469	ELLINGTON	36.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311543	2533	3101316471		107-TF		J & R FALCONE #4 31-013-16471	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311544	2535	3101315744		107-TF		J & R FALCONE #5 31-013-15744	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311532	2477	3101315746		107-TF		KENNETH C ANDERSON	WILDCAT	36.0	COLUMBIA GAS TRAN
8311518	2251	3101312517		107-TF		M & D LENT - N Y #45 31-013-12517	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8311533	2475	3101316094		107-TF		M & M WELLMAN #2	KENNEDY	36.0	COLUMBIA GAS TRAN
8311545	2633	3101315488		107-TF		RICE-CHAUT #1 31-013-15488	WILDCAT	36.0	COLUMBIA GAS TRAN
-UNIVERSAL RESOURCES HOLDINGS INC		RECEIVED: 11/29/82 JA: NY							
8311549	2646	3101316841		107-TF		W LIND #1	GERRY	20.0	COLUMBIA GAS TRAN
-US ENERGY DEVELOPMENT CORP		RECEIVED: 11/29/82 JA: NY							
8311539	2484	3101316050		107-TF		ZAHM-FREDRICKSON #1	GERRY	20.0	COLUMBIA GAS TRAN

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OKLAHOMA CORPORATION COMMISSION

****

-ANADARKO PRODUCTION COMPANY		RECEIVED: 11/24/82 JA: OK							
8311404	18228	3505320523		108		SCHUNEMAN A 1-33	RENFROW	18.0	PANHANDLE EASTERN
8311403	18227	3505320519		108		SUBERA A 1-33	RENFRO	19.0	PANHANDLE EASTERN
-ARCO OIL AND GAS COMPANY		RECEIVED: 11/24/82 JA: OK							
8311512	17833	3500722271		103		NORTHWEST CAMRICK UNIT #24-5	CAMRICK	21.9	NATURAL GAS PIPEL
-BARUCH-FOSTER CORP		RECEIVED: 11/24/82 JA: OK							
8311505	17845	3503723292		103		WOODROW CHILDERS "E"-1	WEST SHAMROCK	20.0	CITIES SERVICE GA
-BURKHART PETROLEUM CORP		RECEIVED: 11/24/82 JA: OK							
8311515	17800	3513921445		103		FLOWERS #1-25	EAST HARDESTY	64.2	PHILLIPS PETROLEU
8311516	17799	3513921504		103		GRAHAM 1-31	HARDESTY	33.2	PHILLIPS PETROLEU
-C W SMITH & ASSOCIATES INC		RECEIVED: 11/24/82 JA: OK							
8311402	18004	3508121661		103		HOPKINS/OLIVER #1	S E DAVENPORT	14.0	MERIDIAN ENERGY I
-CLARK RESOURCES INC		RECEIVED: 11/24/82 JA: OK							
8311502	17897	3507323477		103		IRVIN 1-1	SOONER TREND	230.0	CONOCO INC
-CN OPERATING CO		RECEIVED: 11/24/82 JA: OK							
8311392	18041	3503700[illegible]		108		ANNIE ROBERTS #1	CUSHING	1.1	ARCO OIL & GAS CO
8311393	18040	3503700[illegible]		108		ANNIE ROBERTS #2	CUSHING	1.1	ARCO OIL & GAS CO
8311394	18039	3503700[illegible]		108		ANNIE ROBERTS #3	CUSHING	1.1	ARCO OIL & GAS CO
8311395	18038	3503700[illegible]		108		ANNIE ROBERTS #4	CUSHING	1.1	ARCO OIL & GAS CO
8311396	18037	3503700[illegible]		108		HUGHES-RICKNER #3	CUSHING	0.5	ARCO OIL & GAS CO
8311397	18036	3503700[illegible]		108		HUGHES-RICKNER #5	CUSHING	0.5	ARCO OIL & GAS CO
8311398	18035	3503700[illegible]		108		JESSIE BRUNER (RYAN-SELLARS)	CUSHING	0.3	ARCO OIL & GAS CO
8311399	18034	3503700[illegible]		108		JESSIE BRUNER (RYAN-SELLARS) #2	CUSHING	0.3	ARCO OIL & GAS CO
8311389	18044	3503700[illegible]		108		JOHNNY JACOBS #4	CUSHING	0.5	ARCO OIL & GAS CO
8311390	18043	3503700[illegible]		108		JOHNNY JACOBS #5	CUSHING	0.5	ARCO OIL & GAS CO
8311391	18042	3503700[illegible]		108		JOHNNY JACOBS #6	CUSHING	0.5	ARCO OIL & GAS CO
8311400	18031	3503700[illegible]		108		REPLOGLE #1	CUSHING	8.4	ARCO OIL & GAS CO
-COTTON PETROLEUM CORPORATION		RECEIVED: 11/24/82 JA: OK							
8311411	21868	3501521361		107-DP		MCCLURE #1	COTTONWOOD SW	0.0	UNITED GAS PIPELI
-CROUCH PETROLEUM COMPANY		RECEIVED: 11/24/82 JA: OK							
8311483	17870	3509120335		103		CLEEK #1	S E CHECOTAH	108.0	COLUMBIA GAS TRAN
8311484	17860	3509120277		103		KOCH #1	S E CHECOTAH	36.0	COLUMBIA GAS TRAN
8311485	17859	3509120327		102-4		WYNN #1	S E CHECOTAH	30.0	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT GROUP INC		RECEIVED: 11/24/82 JA: OK							
8311500	17902	3511100[illegible]		103		SMITH-WELL #1-3	YOUNGSTOWN	0.0	SWAB CORP
-GETTY OIL COMPANY		RECEIVED: 11/24/82 JA: OK							
8311401	17908	3504321355		103		HASBROOK #24-2	FONDA	82.0	PHILLIPS PETROLEU
-GIN INC		RECEIVED: 11/24/82 JA: OK							
8311511	17835	3507323186		103		KING #1	SOONER TREND	0.0	PHILLIPS PETROLEU
-HARPER OIL COMPANY		RECEIVED: 11/24/82 JA: OK							

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311489	21881	3501521213		107-DP		ROMICK #1	WILDCAT	146.0	EL PASO NATURAL G
-HEFNER RESOURCES CORP				RECEIVED:	11/24/82	JA: OK			
8311489	17854	3513722992		103		KHOURY #1-12 137-75226	SHO-VEL-TUM	250.0	MOBIL OIL CORP
-INTERNORTH INC				RECEIVED:	11/24/82	JA: OK			
8311486	18543	3504563976		102-4		MCCLURE #1-1	MOCANE-LAVERNE	65.0	INTERNORTH INC
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	11/24/82	JA: OK			
8311488	17855	3509722245		105		CVANIGA #1	MOCANE LAVERNE	100.0	
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	11/24/82	JA: OK			
8311490	17957	3513900000		108		ELLIOTT #1	GUYMON-HUGOTON	22.0	KANSAS-NEBRASKA N
-MACKELLAR INC				RECEIVED:	11/24/82	JA: OK			
8311498	17926	3507323573		103		ANNA JECH #2	SOONER TREND	0.0	CONOCO INC
8311499	17925	3507323415		103		SOUDEK #1A	SOONER TREND	0.0	CONOCO INC
-MOBIL OIL CORP				RECEIVED:	11/24/82	JA: OK			
8311491	17944	3504900000		108		F H HARRIS #13	ROBBERSON	4.0	OKLAHOMA NATURAL
-MORGAN & STEINERT INC				RECEIVED:	11/24/82	JA: OK			
8311486	17858	3507323450		103		THELMA #1	SOONER TREND	250.0	ONG WESTERN INC
-NATOMAS NORTH AMERICA INC				RECEIVED:	11/24/82	JA: OK			
8311408	18570	3504321321		102-4		PAGE #1	SEC 18 T19N R19W	129.0	PANHANDLE EASTERN
-OIL LIFT INC				RECEIVED:	11/24/82	JA: OK			
8311407	18555	3510525716		102-2		HUSTON #1-14 (API 10525716)	SOUTH COFFEYVILLE	18.3	PELICAN PIPELINE
-OLD DOMINION OIL CORP				RECEIVED:	11/24/82	JA: OK			
8311517	17795	3512120936		103		DEBBIE #1	FEATHERSTON	235.0	ARKANSAS LOUSIANA
8311493	17794	3515321519		103		SELMAN #1	N W QUINLAN	1096.0	PRODUCER'S GAS CO
-PETROLEUM INC				RECEIVED:	11/24/82	JA: OK			
8311501	17901	3511121689		105		ACORD #1	SOUTH EAGLE CITY	250.0	ARKANSAS LOUISIAN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	11/24/82	JA: OK			
8311495	17941	3501721354		108		MCCARTHY "A" #1	N CONCHO	10.4	PANHANDLE EASTERN
8311496	17940	3501721366		108		MCCARTHY "D" #1	NORTH CONCHO	11.6	PANHANDLE EASTERN
8311497	17939	3505120852		108		MCCOMAS "A" #1	UNION CITY	13.6	TRANSOK PIPELINE
8311495	18240	3501720656		108		WILKERSON C #1	NW RICHLAND	9.4	OKLA GAS & ELECTR
-PORTS OF CALL OIL CO				RECEIVED:	11/24/82	JA: OK		146.0	PHILLIPS PETROLEU
8311494	17793	3501722001		105		KM #20-2			
-QUANAH COMPANY				RECEIVED:	11/24/82	JA: OK.			
8311487	17857	3501722251		105		MEYER #1	SOONER TREND	35.0	PHILLIPS PETROLEU
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	11/24/82	JA: OK			
8311492	18195	3511900000		106		SCHUTKESTING #3	BROYLES	3.0	CITIES SERVICE GA
-SUNRISE EXPLORATION INC				RECEIVED:	11/24/82	JA: OK			
8311410	18551	3512900000		102-4		DEAN YOXSIMER #1-16	S W LEEDY	730.0	DELHI GAS PIPELIN
-TENNECO OIL COMPANY				RECEIVED:	11/24/82	JA: OK			
8311513	17832	3509129140		105		STORM #23-6	CHEOCATAH SE	76.6	
-TXO PRODUCTION CORP				RECEIVED:	11/24/82	JA: OK			
8311507	17842	3509322299		105		SHOLTESS #2	FAIRVIEW	0.0	DELHI GAS PIPELIN
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	11/24/82	JA: OK			
8311503	17853	3508720711		103		HOPKINS 1-11		0.0	ARKANSAS LOUISIAN
8311518	17835	3512720556		103		HUDSON 1-18		0.0	SUN GAS CO
-W J FORREST M D				RECEIVED:	11/24/82	JA: OK			
8311506	17844	3501722148		105		FORREST #1	OKLAHOMA CITY	180.0	PHILLIPS PETROLEU
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	11/24/82	JA: OK			
8311504	17852	3509322414		103		GIBSON #1-36	NORTH AMES	69.5	PIONEER GAS PRODU
8311509	17838	3500320907		105		MARY J #1-7	CHANEY DELL	26.3	UNION TEXAS PETRO
8311508	17839	3509322283		103		SCHOONOVER #1-19	SOONER TREND	67.9	PHILLIPS PETROLEU
-WHEATLAND OIL CO				RECEIVED:	11/24/82	JA: OK			
8311514	17831	3507323507		103		PARKER #1	SOUTH LACEY	91.3	PHILLIPS PETROLEU

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JD NO	JA DKT	API NO	D SEC(1) STC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
				WEST VIRGINIA DEPARTMENT OF MINES			
-CONSOLIDATED GAS SUPPLY CORPORATION RECEIVED: 11/24/82 JA: WV							
8311431		4710306769	108	A J WITCHERMAN WN-4897	GRANT	1.0	GENERAL SYSTEM PU
8311457		4704700355	108	AVA F CRUM WN-10855	SANDY RIVER	20.0	GENERAL SYSTEM PU
8311464		4706700217	108	BESSIE MAYS WN-10212	HAMILTON	21.0	GENERAL SYSTEM PU
8311462		4710900371	108	BUREN H TOLER WN-9712	BAILEYSVILLE	6.0	GENERAL SYSTEM PU
8311475		4705900647	108	CHARLES A HAMILL WN 11880	STAFFORD DISTRICT	9.0	GENERAL SYSTEM PU
8311465		4706700263	108	CHESSIE GROVES WN-11173	HAMILTON	8.0	GENERAL SYSTEM PU
8311472		4704700534	108	CROZER LAND ASSOCIATION WN-11472	BROWNS CREEK	10.0	GENERAL SYSTEM PU
8311439		4704900394	108	CYRUS TETRICK WN-5289	LINCOLN	5.0	GENERAL SYSTEM PU
8311412		4706100300	108	ELEANOR T DONLEY WN-10862	CLINTON	3.0	GENERAL SYSTEM PU
8311469		4707700141	108	FREEMANS A CLARKSON WN-11254	REND	2.0	GENERAL SYSTEM PU
8311451		4704700282	108	GLADYS B COOK WN-10638	SANDY RIVER	21.0	GENERAL SYSTEM PU
8311424		4709700679	108	GRACE MCCUE WN-10396	MEADE	5.0	GENERAL SYSTEM PU
8311413		4706100317	108	GREER STEEL CO WN-11022	MORGAN	10.0	GENERAL SYSTEM PU
8311470		4708100115	108	H G FARMER WN-9204	TRAPHILL	4.0	GENERAL SYSTEM PU
8311420		4704700449	108	IDA ROBERTS WN-11253	SANDY RIVER	17.0	GENERAL SYSTEM PU
8311422		4704700478	108	IDA ROBERTS WN-11320	SANDY RIVER	16.0	GENERAL SYSTEM PU
8311426		4709700532	108	J C REED WN-10119	WARREN	15.0	GENERAL SYSTEM PU
8311429		4710300636	108	J R CALVERT WN-3012	MANNINGTON	1.0	GENERAL SYSTEM PU
8311435		4701900117	108	JOSEPH CHAMBERS WN-9211	CLEAR FORK	5.0	GENERAL SYSTEM PU
8311418		4704700442	108	KANAWHA BANKING & TRUST WN-11213	SANDY RIVER	6.0	GENERAL SYSTEM PU
8311459		4710900533	108	LASH LITZ BEASLEY WN-10218	OCEANA	2.0	GENERAL SYSTEM PU
8311467		4706700297	108	LEE RADER WN-11500	HAMILTON	9.0	GENERAL SYSTEM PU
8311460		4701900475	108	LEOLA S DAMERON WN-10007	CLEAR FORK	16.0	GENERAL SYSTEM PU
8311427		4710900243	108	LILLIE BARRETT WN-9194	OCEANA	12.0	GENERAL SYSTEM PU
8311458		4710900537	108	LOUP CREEK COLLIERY CO WN-10236	OCEANA	7.0	GENERAL SYSTEM PU
8311466		4706700291	108	MARTHA L WHITE WN-11379	HAMILTON	7.0	GENERAL SYSTEM PU
8311428		4709701401	108	MAXINE M BENNETT WN-11404	UNION	8.0	GENERAL SYSTEM PU
8311454		4704700297	108	MCDOWELL POCAHONTAS COAL WN-10701	SANDY RIVER	19.0	GENERAL SYSTEM PU
8311440		4704700401	108	MCDOWELL POCAHONTAS COAL WN-10964	SANDY RIVER	19.0	GENERAL SYSTEM PU
8311417		4704700435	108	MCDOWELL POCAHONTAS COAL WN-11119	SANDY RIVER	6.0	GENERAL SYSTEM PU
8311419		4704700443	108	MCDOWELL POCAHONTAS COAL WN-11287	BIG CREEK	14.0	GENERAL SYSTEM PU
8311436		4706100396	108	MORTON VANVOORHIS WN-9950	CASS	3.0	GENERAL SYSTEM PU
8311438		4706100226	108	MYRTLE A PIXLER WN-10914	MORGAN	17.0	GENERAL SYSTEM PU
8311468		4706700298	108	N F RADER WN-11588	HAMILTON	10.0	GENERAL SYSTEM PU
8311434		4708702110	108	NICLOETE LUMBER CO WN-7122	SPENCER	3.0	GENERAL SYSTEM PU
8311433		4708702112	108	NICOLETE LUMBER CO WN-7124	SPENCER	2.0	GENERAL SYSTEM PU
8311441		4706100323	108	O HART WN-10963	MORGAN	8.0	GENERAL SYSTEM PU
8311442		4706700215	108	OKEY GROVES WN-10186	HAMILTON	10.0	GENERAL SYSTEM PU
8311443		4704700196	108	OLGA COAL CO WN-10274	BIG CREEK	16.0	GENERAL SYSTEM PU
8311444		4704700197	108	OLGA COAL CO WN-10275	WELCH	18.0	GENERAL SYSTEM PU
8311446		4704700237	108	OLGA COAL CO WN-10366	SANDY RIVER	13.0	GENERAL SYSTEM PU
8311447		4704700246	108	OLGA COAL CO WN-10452	BIG CREEK	11.0	GENERAL SYSTEM PU
8311453		4704700291	108	OLGA COAL CO WN-10453	BIG CREEK	8.0	GENERAL SYSTEM PU
8311449		4704700271	108	OLGA COAL CO WN-10555	SANDY RIVER	23.0	GENERAL SYSTEM PU
8311452		4704700264	108	OLGA COAL CO WN-10654	BIG CREEK	16.0	GENERAL SYSTEM PU
8311455		4704700300	108	OLGA COAL CO WN-10738	SANDY RIVER	7.0	GENERAL SYSTEM PU
8311414		4704700379	108	OLGA COAL CO WN-10898	SANDY RIVER	16.0	GENERAL SYSTEM PU
8311415		4704700394	108	OLGA COAL CO WN-10955	SANDY RIVER	13.0	GENERAL SYSTEM PU
8311416		4704700404	108	OLGA COAL CO WN-10980	SANDY RIVER	18.0	GENERAL SYSTEM PU

JD NO	JA OKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311421		4704700469		108		OLGA COAL CO WN-11209	BIG CREEK	13.0	GENERAL SYSTEM PU
8311423		4704700513		108		OLGA COAL CO WN-11396	SANDY RIVER	6.0	GENERAL SYSTEM PU
8311471		4704705160		108		OLGA COAL CO WN-11397	SANDY RIVER	16.0	GENERAL SYSTEM PU
8311448		4704700247		108		OLGA COAL COMPANY WN-10464	SANDY RIVER	6.0	GENERAL SYSTEM PU
8311456		4704700347		108		OLGA COAL COMPANY WN-10843	SANDY RIVER	11.0	GENERAL SYSTEM PU
8311450		4704700277		108		OLGA COAL COMPANY WN-11454	BIG CREEK	9.0	GENERAL SYSTEM PU
8311445		4704700228		108		PEOPLES 1ST NATIONAL BANK WN-10367	SANDY RIVER	6.0	GENERAL SYSTEM PU
8311473		4704700603		108		POCAHONTAS LAND CORP WN 11606	NORTH FORK DISTRICT	21.0	GENERAL SYSTEM PU
8311463		4710900624		108		POCOHANTAS LAND 1-17 WN 12586	BARKERS RIDGE	20.0	GENERAL SYSTEM PU
8311432		4708702113		108		RADECKER & COMPANY WN-7125	SPENCER	4.0	GENERAL SYSTEM PU
8311425		4709700708		108		SAMPSON-MOORE WN-10343	BANKS	3.0	GENERAL SYSTEM PU
8311430		4709500493		108		SAMUEL STONEKING WN-5394	MCELROY	12.0	GENERAL SYSTEM PU
8311474		4705900507		108		W W MCDONALD LAND CO WN-9944	STAFFORD	13.0	GENERAL SYSTEM PU
8311437		4706100394		108		WM L TENNANT WN-5069	CLAY	5.0	GENERAL SYSTEM PU
8311461		4710900377		108		WYOMING MININS CORP WN-9761	OCEANA	18.0	GENERAL SYSTEM PU
-CONSOLIDATED GAS SUPPLY CORPORATION RECEIVED: 11/26/82 JA: WV									
8311351		4709300020		108		ARLIE W MEYERS WN-10097	LICKING	9.0	GENERAL SYSTEM PU
8311368		4709701601		108		B C RADABAUGH WN-10942	UNION	10.0	GENERAL SYSTEM PU
8311361		4709700663		108		B F WHITESCARVER WN-10362	BANKS	2.0	GENERAL SYSTEM PU
8311388		4710900358		108		BUREN H TOLER (UNIT) WN-9648	BAILEYVILLE	3.0	GENERAL SYSTEM PU
8311378		4709700842		108		D B MARTENEY WN-10637	UNION	11.0	GENERAL SYSTEM PU
8311370		4708503894		108		ELIAS CONNELLY WN-4889	MURPHY	3.0	GENERAL SYSTEM PU
8311354		4710900266		108		ELLA SHUMATE WN-9228	OCEANA	21.0	GENERAL SYSTEM PU
8311379		4709701822		108		ESTER WORKMAN WN-10533	UNION	16.0	GENERAL SYSTEM PU
8311376		4709700879		108		ETHEL WILSON WN-10727	UNION	7.0	GENERAL SYSTEM PU
8311385		4709700472		108		F O MARPLE WN-9977	WARREN	1.0	GENERAL SYSTEM PU
8311353		4710900264		108		G C HEDRICK WN-9269	OCEANA	22.0	GENERAL SYSTEM PU
8311382		4709700607		108		GRETA PROUDFOOT WN-10263	WARREN	14.0	GENERAL SYSTEM PU
8311369		4709701326		108		H C ALEXANDER WN-11288	UNION	10.0	GENERAL SYSTEM PU
8311380		4709700693		108		H H SAUNDERS WN-10418	BANKS	13.0	GENERAL SYSTEM PU
8311374		4708100285		108		HENRY BRYSON WN-11171	TRAP HILL	2.0	GENERAL SYSTEM PU
8311383		4709700605		108		J WARDEN IRELAND WN-10264	WARREN	6.0	GENERAL SYSTEM PU
8311372		4708503305		108		J S BEALL WN-11167	MURPHY	3.0	GENERAL SYSTEM PU
8311386		4709700403		108		JOHN DEAN WN-9711	WARREN	4.0	GENERAL SYSTEM PU
8311373		4708502542		108		JOHN M SUMMERS WN-10386	UNION	0.4	GENERAL SYSTEM PU
8311387		4709500485		108		LILLIE M MAPLE WN 12386	CENTERVILLE	5.0	GENERAL SYSTEM PU
8311365		4710900124		108		LOUP CREEK COLLIERY CO WN-9123	OCEANA	16.0	GENERAL SYSTEM PU
8311364		4710900134		108		LOUP CREEK COLLIERY CO WN-9141	OCEANA	11.0	GENERAL SYSTEM PU
8311363		4710900169		108		LOUP CREEK COLLIERY CO WN-9091	OCEANA	11.0	GENERAL SYSTEM PU
8311361		4710900195		108		LOUP CREEK COLLIERY CO WN-9120	OCEANA	16.0	GENERAL SYSTEM PU
8311360		4710900213		108		LOUP CREEK COLLIERY CO WN-9156	OCEANA	4.0	GENERAL SYSTEM PU
8311358		4710900224		108		LOUP CREEK COLLIERY CO WN-9161	OCEANA	12.0	GENERAL SYSTEM PU
8311356		4710900255		108		LOUP CREEK COLLIERY CO WN-9174	OCEANA	20.0	GENERAL SYSTEM PU
8311359		4710900222		108		LOUP CREEK COLLIERY CO WN-9176	OCEANA	14.0	GENERAL SYSTEM PU
8311357		4710900239		108		LOUP CREEK COLLIERY CO WN-9193	OCEANA	8.0	GENERAL SYSTEM PU
8311377		4709701844		108		NELL RADABAUGH WN-10635	UNION	6.0	GENERAL SYSTEM PU
8311362		4710900175		108		N RIVER & POCAHONTAS CONS CO WN9694	BAILEYSVILLE	21.0	GENERAL SYSTEM PU
8311366		4710900185		108		N RIVER & POCAHONTAS CONS CO WN9662	BAILEYSVILLE	15.0	GENERAL SYSTEM PU
8311355		4710900256		108		POCAHONTAS LAND CORP WN-9205	CENTER	5.0	GENERAL SYSTEM PU
8311352		4710900295		108		POCAHONTAS LAND CORP WN-9314	CENTER	4.0	GENERAL SYSTEM PU
8311367		4710500301		108		S J KILCOYNE WN-8847	GRANT	6.0	GENERAL SYSTEM PU
8311375		4709701658		108		SALLIE PAUGH WN-10932	UNION	13.0	GENERAL SYSTEM PU
8311371		47 9300014		108		W ASA STREETS WN-9949	LICKING	7.0	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D SEC'D	SUBSEQ	WELL NAME	FIELD NAME	PROD	PURCHASER
8311384		4709700537	108		W L KARICKOFF WN-10115	WARREN	5.0	GENERAL SYSTEM PU
-MONITOR PETROLEUM CORP			RECEIVED:	11/26/82	JA: WV			
8311349		4708121282	103		MONITOR #1 SNELLING	BARKER	54.0	COLUMBIA GAS TRAN
-WACO OIL AND GAS CO INC			RECEIVED:	11/26/82	JA: WV			
8311350		4708103767	103		WHITING #13A	GILMER	9.0	CONSOLIDATED GAS
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO								
-CIG EXPLORATION INC			RECEIVED:	11/24/82	JA: UT 1			
8311348	UD 0420-82	4304750869	103		17-TF CIGE 87D-34-9-21J	NATURAL BUTTES	392.0	COLORADO INTERSTA
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA								
-ANADARKO PRODUCTION COMPANY			RECEIVED:	11/26/82	JA: LA 3			
8311280	G2-2724	1772040073	102-5		WEST DELTA BLK 138 WELL #A-6	WEST DELTA	40.0	INTERNORTH INC
8311282	G2-2723	1772040063	102-5		WEST DELTA BLK 138 WELL NO A-1	WEST DELTA	729.0	INTERNORTH INC
-ARCO OIL AND GAS COMPANY			RECEIVED:	11/29/82	JA: LA 3			
8311307	G2-2836	1772140222	102-5		OCS-G 1608 E-3	SOUTH PASS	175.0	SOUTHERN NATURAL
-CHEVRON U S A INC			RECEIVED:	11/29/82	JA: LA 3			
8311310	G2-2694	1770640308	102-5		OCS-G-3136 #A-3	VERMILLION	53.0	COLUMBIA GAS TRAN
-CNG PRODUCING COMPANY			RECEIVED:	11/29/82	JA: LA 3			
8311299	G2-3229	1771240247	102-1		A-1S1	SHIP SHOAL	680.0	TEXAS EASTERN TRA
8311322	G2-3235	1771240247	102-1		A-1S2	SHIP SHOAL	2040.0	TEXAS EASTERN TRA
8311314	G2-3231	1771240252	102-1		A-2S1	SHIP SHOAL	1040.0	TEXAS EASTERN TRA
8311319	G2-3232	1771240263	102-1		A-3S1	SHIP SHOAL	1387.0	TEXAS EASTERN TRA
8311326	G2-3233	1771240263	102-1		A-4S1	SHIP SHOAL	3150.0	TEXAS EASTERN TRA
8311327	G2-3234	1771240256	102-1		A-5S1	SHIP SHOAL	875.0	TEXAS EASTERN TRA
8311291	G2-3235	1771240279	102-1		A-6S1	SHIP SHOAL	0.0	TEXAS EASTERN TRA
8311286	G2-3236	1771240274	102-1		A-8S1	SHIP SHOAL	810.0	TEXAS EASTERN TRA
8311288	G2-3237	1771240271	102-1		A-9S1	SHIP SHOAL	1400.0	TEXAS EASTERN TRA
-DAVIS OIL COMPANY			RECEIVED:	11/29/82	JA: LA 3			
8311311	G2-2726	1770840508	102-5		DAVIS OIL #9 OCS 6-0763	WEST CAMERON	1200.0	TENNESSEE GAS PIP
-EXXON CORPORATION			RECEIVED:	11/29/82	JA: LA 3			
8311317	G2-2823	1771940174	102-5		OCS-G 3188 # B-1	WEST DELTA	1800.0	COLUMBIA GAS TRAN
-GETTY OIL COMPANY			RECEIVED:	11/29/82	JA: LA 3			
8311297	G2-3154	1770640396	102-1		VERMILION 264 A-1	VERMILION	1500.0	TEXAS EASTERN TRA
8311296	G2-3155	1770640495	102-1		VERMILION 264 A-2 (ST-1)	VERMILION	1500.0	TEXAS EASTERN TRA
8311298	G2-3156	1770640414	102-1		VERMILION 264 A-3 (ST-1)	VERMILION	1500.0	TEXAS EASTERN TRA
-GULF OIL CORPORATION			RECEIVED:	11/29/82	JA: LA 3			
8311312	G2-2824	1770940370	102-5		EUGENE ISL BLK 252 OCS-G-0983 #G-10	EUGENE ISLAND	1460.0	SEA ROBIN PIPELIN
-MARATHON OIL COMPANY			RECEIVED:	11/26/82	JA: LA 3			
8311281	G2-2672	1772240028	102-5		SOUTH PASS BLK 89 WELL #A-3	SOUTH PASS SOUTHEAST	46.0	TEXAS EASTERN TRA
-MARATHON OIL COMPANY			RECEIVED:	11/29/82	JA: LA 3			
8311305	G2-2669	1772240039	102-5		SOUTH PASS BLK 89 WELL A-7	SOUTH PASS SOUTHEAST	42.0	TEXAS EASTERN TRA
8311309	G2-2668	1772240038	102-5		SOUTH PASS BLK 89 WELL A-9	SOUTH PASS SOUTHEAST	92.0	TEXAS EASTERN TRA
-MESA PETROLEUM CO			RECEIVED:	11/29/82	JA: LA 3			
8311315	G2-3169	1771340071	102-1		SOUTH PELTO BLK 12 #A-1B	SOUTH PELTO	1825.0	TRUNKLINE GAS CO
8311283	G2-2639	1770640389	102-5		VERMILION BLK 348 WELL #A-2	VERMILION BLOCK	230.0	TRUNKLINE GAS CO
8311284	G2-2721	1770640415	102-5		VERMILION BLK 348 WELL #A-5	VERMILION BLOCK	230.0	TRUNKLINE GAS CO
8311333	G2-2722	1770640415	102-5		VERMILION BLK 348 WELL #A-5D	VERMILION BLOCK	230.0	TRUNKLINE GAS CO
8311285	G2-2820	1770640437	102-5		VERMILION BLK 348 WELL #A-7	VERMILION BLOCK	1825.0	TRUNKLINE GAS CO
8311293	G2-2821	1770640437	102-5		VERMILION BLK 348 WELL #A-7D	VERMILION BLOCK	1825.0	TRUNKLINE GAS CO
8311313	G2-2589	1770640339	102-5		VERMILION BLK 348 WELL A-1	VERMILION BLOCK	1825.0	TRUNKLINE GAS CO

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD.	PURCHASER
8311294	G2-3160	1770640502		102-1		VERMILION 381 #A-1	VERMILION	500.0	UNITED GAS PIPE L
8311292	G2-3161	1770640502		102-1		VERMILION 381 #A-1D	VERMILION	1200.0	UNITED GAS PIPE L
8311290	G2-3162	1770640504		102-1		VERMILION 381 #A-2	VERMILION	1200.0	UNITED GAS PIPE L
8311318	G2-3163	1770640504		102-1		VERMILION 381 #A-2D	VERMILION	500.0	UNITED GAS PIPE L
8311304	G2-3166	1770640509		102-1		VERMILION 381 #A-5	VERMILION	1200.0	UNITED GAS PIPE L
8311316	G2-3167	1770640509		102-1		VERMILION 381 #A-5D	VERMILION	1200.0	UNITED GAS PIPE L
-ODECO OIL & GAS CO				RECEIVED:	11/29/82	JA: LA 3			
8311289	G2-2816	1771140442		102-5		OCS-038 #6B	SHIP SHOAL 113 FIELD	1450.0	TRANSCONTINENTAL
-QUINTANA OFFSHORE INC				RECEIVED:	11/29/82	JA: LA 3			
8311295	G2-3157	1771140597		107-DP		OCS-G-3411 #2	SHIP SHOAL BLOCK	5500.0	TEXAS GAS TRANSMI
-TENNECO OIL COMPANY				RECEIVED:	11/29/82	JA: LA 3			
8311323	G2-2759	1770441421		102-5		EAST CAMERON 260 #C-2	EAST CAMERON	330.0	TENNESSEE GAS PIP
8311311	G2-2698	1770441429		102-5		EAST CAMERON 260 #C-4	EAST CAMERON	260.0	TENNESSEE GAS PIP
8311324	G2-2603	1771140500		102-1		SHIP SHOAL 170 A-5	SHIP SHOAL	657.0	TENNESSEE GAS PIP
-TEXACO INC				RECEIVED:	11/29/82	JA: LA 3			
8311287	G2-2776	1771040674		102-5		OCS-G-2608 E I 313 #B-9	EUGENE ISLAND	803.0	COLUMBIA GAS TRAN
8311302	G2-3171	1771940225		107-DP		OCS-G-2937 WEST DELTA 109 #A-5	WEST DELTA	1008.0	UNCOMMITTED
-UNION OIL COMPANY OF CALIF				RECEIVED:	11/29/82	JA: LA 3			
8311321	G2-3178	1770540491		107-DP		OCS 0548 #7	VERMILION	1824.0	
8311300	G2-3190	1770540504		102-1		OCS-G 4787 #2	VERMILION	45.0	
8311320	G2-3189	1770540504		102-1		OCS-G 4787 #2-D	VERMILION	540.0	
-TENNECO OIL COMPANY				RECEIVED:	11/29/82	JA: TX 3			
8311308	G2-3152	4270640051		102-1		GALVESTON AREA BLK 393 #C-2	GALVESTON AREA	0.0	TENNESSEE GAS PIP
-TEXASGULF INC				RECEIVED:	11/29/82	JA: TX 3			
8311328	G2-2716	4270340043		102-5		OCS-G-3080 #A-1	MATAGORDA ISLAND	5475.0	SOUTHERN NATURAL
8311306	G2-2717	4270340084		102-5		OCS-G-3080 #A-2	MATAGORDA ISLAND	5475.0	SOUTHERN NATURAL
8311325	G2-2718	4270340091		102-5		OCS-G-3080 #A-5	MATAGORDA ISLAND	5475.0	SOUTHERN NATURAL

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). A (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old BCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–350 Filed 1–5–83; 8:45 am]

BILLING CODE 6717–01–M

Southeastern Power Administration

Proposed Rate Adjustement, Public Hearing, and Opportunities for Public Review and Comment

AGENCY: Southeastern Power Administration (Southeastern), DOE.

ACTION: Notice of proposed rate adjustment for Kerr-Philpott System, notice of public hearing and opportunity for review and comment.

SUMMARY: Southeastern proposes to replace Rate Schedules KP–1–B and JHK–1–D currently applicable to Kerr-Philpott Projects power, seek approval of replacement schedules KP–1–C and JHK–1–E for a 3½-year period, April 1, 1982, through September 30, 1986, and eliminate Rate Schedule KP–2–B.

Opportunities will be available for interested persons to review the present rates, the proposed rates and supporting studies, to participate in a hearing and to submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before February 25, 1983. A public information and public comment forum will be held in South Hill, Virginia, on February 8, 1983. Persons desiring to speak at the forum should notify Southeastern at least 4 days before the forum is scheduled, so that a list of forum participants can be prepared. Others may speak if time permits.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635. The public comment forum will begin at 10 a.m. on February 8, 1983, in the Holiday Inn, Atlantic Street, South Hill, Virginia 23970.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (404) 283–3261.

SUPPLEMENTARY INFORMATION: The Federal Power Commission by order issued February 18, 1976, in Docket No. E–7002, confirmed and approved Wholesale Power Rate Schedules KP–1–B, KP–2–B, and JHK–1–B applicable to Kerr-Philpott Projects' power for a period ending June 30, 1980.

Thereafter, on January 29, 1981, and March 19, 1982, in Docket Nos. EF80–3041 and EF81–3041, respectively, the Federal Energy Regulatory Commission extended through September 30, 1982, approvals of Rate Schedules KP–1–B and KP–2–B and approved Rate Schedule JHK–1–C as a substitute of JHK–1–B.

Subsequently, on September 2, 1982, Assistant Secretary, Conservation and Renewable Energy interimly approved through March 31, 1983, extension of Rate Schedules KP–1–B and KP–2–B and approved Rate Schedule JHK–1–D as a substitute for JHK–1–C. The rate schedules are now pending before the Federal Energy Regulatory Commission for approval on a final basis.

Discussion: Existing rate schedules are predicted upon a March 1975 repayment study and other supporting date all of which are contained in FPC Docket No. E–7002. The repayment studies prepared in April of 1980 and March of 1981 showed that existing rates were adequate through fiscal year 1981, and therefore two extensions were requested and allowed.

A June 1982 repayment study showed a need for a rate increase of up to 10 percent, however, a six-month extension was requested to allow negotiation of contracts to implement the interim power marketing policy.

Additionally, a revised repayment study with $4,408,000 revenue increase over the June 1982 repayment study in each future year demonstrates that all costs are paid within their repayment life. Therefore, Southeastern is proposing to raise the rates to a level which will recover that additional $4,408,000.

Of the increase, $3,427,000 is attributable to wheeling costs, which is caused by increased charges from investor-owned utilities and increased capacity wheeled. The remaining increase of approximately $981,000 is due to escalated costs at the generating projects. The overall increase amounts to 66 percent increase in revenues.

The wheeling rate was established to pass the exact charge of the investor-owned utility directly to the preference customers served by the utility. The wheeling rate for preference customers of the Government served by VEPCO will be $1.74/month. The wheeling rate for preference customers served by CP&L will be $1.99/month. The wheeling charges are proposed to be subject to automatic future adjustments to pass SEPA's adjusted wheeling cost from the investor-owned utility to the appropriate preference customers.

The demand charge applicable to preference customers has been increased by approximately 22 percent to $1.52/kilowatt of monthly demand and the energy charge has been increased by approximately 25 percent to 6.25 mills/kilowatt-hour. Sales to the utilities will be eliminated.

The referenced June 1982 system repayment study along with a revised repayment study dated December 1982 and previous system repayment studies are available for examination at the Samuel Elbert Building, Elberton, Georgia 30635. Proposed rate schedules KP–1–C and JHK–1–E, applicable to the extension period, are also available.

Issued at Elberton, Georgia, December 28, 1982.

Kenelm E. Rucker,

Acting Administrator.

[FR Doc. 83–271 Filed 1–5–83; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-42021; FRL 2262-7]

Antimony Metal; Antimony Trioxide; and Antimony Sulfide Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and request for comments.

SUMMARY: In the Fourth Report of the Interagency Testing Committee (ITC), published in the **Federal Register** of June 1, 1979 (44 FR 31878), the ITC designated antimony metal (Sb metal), antimony trioxide (Sb_2O_3), and antimony sulfide (Sb_2S_3) for priority testing consideration. After publication of the ITC report, the domestic manufacturers of these antimony substances formed the Antimony Oxide Industry Association (AOIA). This group presented a program to the Agency for monitoring and controlling occupational exposure and environmental release, performing medical surveillance, continuing epidemiology studies for exposed workers, and performing testing to characterize the health effects and chemical fate of these antimony substances. The Agency has tentatively accepted the proposed AOIA program in lieu of a test rule because the proposed AIOA program in lieu of a test rule because the proposed AOIA program will provide adequate test data more expeditiously than a test rule. In addition, the proposed program provides for interim control of exposure to these antimony substances while testing is being performed

Consequently, the EPA is not, at this time, initiating rulemaking under section 4(a) of the Toxic Substances Control Act (TSCA) to require testing of Sb metal, Sb_2O_3 or Sb_2S_3. EPA invites public comment on its conclusions as to the need to test the antimony substances and the adequacy of the AOIA's proposed program. This notice constitutes the Agency's statutory response to the ITC's designation of Sb metal, Sb_2O_3 and Sb_2S_3 for testing under section 4(e) of TSCA.

DATE: Written comments should be submitted on or before February 22, 1983.

ADDRESS: Written comments should bear the document control number OPTS-42021 and should be submitted in triplicate to: Document Control Officer, Management Support Division (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

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.: (544-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) authorizes the EPA to promulgate rules requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment. Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to the EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of the Act.

The ITC designated Sb metal, Sb_2O_3 and Sb_2S_3 for testing and recommended that these antimony substances be considered for health effects testing (carcinogenicity, mutagenicity, other chronic effects including reproductive effects, and teratogenicity), for environmental effects testing, and that epidemiology studies be considered (44 FR 31878). These recommendations were based on: (1) Large production of Sb metal, Sb_2O_3 and Sb_2S_3; (2) anticipated occupational and consumer exposure to and environmental release of Sb metal, Sb_2O_3 and Sb_2S_3; (3) physical and chemical characteristics of Sb metal, Sb_2O_3 and Sb_2S_3 which suggested that these substances were persistent and might accumulate in soils and sediments; (4) existing human and animal data on the health effects of Sb metal, Sb_2O_3 and Sb_2S_3; and (5) existing chemical fate and environmental effects data for Sb metal, Sb_2O_3 and Sb_2S_3.

No known techniques are available to chemically distinguish among Sb metal, Sb_2O_3 and Sb_2S_3 in human tissue or environmental samples (air, water, soil, etc.). Sophisticated analytical techniques have been used to distinguish the Sb^{+3} and Sb^{+5} cations (the form of the anion is unknown) and to identify methylated antimony carboxylic acids in natural waters (Refs. 1, 28). The analytical limitations that prevent an investigator from distinguishing among Sb metal, Sb_2O_3 and Sb_2S_3 are important for several reasons: (1) Predicted occupational/environmental exposure to a specific antimony substance, e.g., Sb_2O_3, cannot be confirmed by existing analytical techniques; (2) predicted transformation products of antimony substances, e.g., Sb_2O_3 from Sb metal, cannot be confirmed by existing analytical techniques; and (3) the identity of a specific antimony substance deposited in an environmental/biological medium cannot be confirmed by existing analytical techniques. Throughout this Notice, careful attempts have been made to distinguish the production, predicted exposure and toxicological profiles for Sb metal, Sb_2O_3 and Sb_2S_3. However, where available information does not permit such a distinction, or where all three of the substances are intended to be covered by a statement, the term "antimony substances" is used rather than the name of the individual substance.

II. Analysis of the ITC's Concerns

A. Introduction

In analyzing of the ITC's concerns, EPA considered the available information on the production, human exposure to, and environmental release of Sb metal, Sb_2O_3 and Sb_2S_3, as well as information on the potential health and environmental effects of exposure to the antimony substances. This analysis reflects the facts that: (1) No techniques are available to chemically distinguish among Sb, Sb_2O_3 or Sb_2S_3 at very low levels; (2) these substances frequently are produced and used in the same facilities by the same workers; and (3) these substances are converted from one substance to another during some commercial and environmental processes. The ITC substantially overestimated the production and exposure to individual antimony substances, because they did not fully consider these relationships. EPA's analyses of the production, exposure, and release of antimony substances and of the needs for health and environmental effects testing of these substances are presented below.

B. Production, Processing, Use and Occupational Exposure

1. *Antimony Metal.* The ITC reported that in 1976 production of "antimony" was 29 million pounds from ore and 40 million pounds from recycled metal (Ref. 36). These production estimates were derived by the National Institute for Occupational Safety and Health (NIOSH), which used the term "antimony" to include "elemental antimony and all antimony compounds except the gas stibine (SbH_3)" (Ref. 30). The ITC substituted the term

"antimony" for Sb metal without taking into consideration NIOSH's definition of "antimony." The inclusion of all antimony compounds except stibine in the production estimate reported by the ITC for Sb metal accounts for the ITC's substantial overestimate of Sb metal production in 1976. The actual 1976 domestic production and importation of Sb metal was 6 million pounds (Ref. 26). In 1980, 5–7 million pounds of Sb metal were produced domestically or imported; the market for Sb metal is expected to remain stable for the next few years (Ref. 26).

NIOSH performed a National Occupational Hazard Survey (NOHS) in 1972–1974 and estimated that, in 1970, 1.35 million workers were potentially exposed to "antimony" (Ref. 29). This exposure estimate was cited by the ITC as the number of workers exposed to Sb metal. However, since NIOSH estimated exposure to "antimony" as described above, and not just to Sb metal, EPA has concluded that NIOSH figure cited by the ITC substantially overestimates the number of workers exposed to Sb metal. In fact, NIOSH states that "most occupational exposure is to Sb_2O_3" (Ref. 30).

The AOIA conducted a survey among their members and reported the following exposure estimates for antimony substances (Ref. 3). The AOIA found that between 230 and 240 production workers are exposed to measurable concentrations of the antimony substances; of these, about 100 workers were found to be potentially exposed to antimony substances at an 8-hour time-weighted average (TWA) of greater than 0.1 mg/m^3. Further, a maximum of 1,000–2,000 workers employed by users of antimony substances would be exposed to antimony substances at concentrations below 0.1 mg/m^3. The AOIA reports that these production and user workers represent the total occupational population potentially exposed to antimony substances. In their view, these figures provide a maximum estimate for the number of workers exposed to Sb metal, because these figures address potential exposure to all three antimony substances (Sb metal, Sb_2O_3 and Sb_2O_5).

In an independent effort for EPA, Mathtech, Inc. determined that there were a total of 2,249 employees at the three domestic facilities which produce and process Sb metal in 1979 (Ref. 26). One of these facilities (Bunker Hill) may close in 1982 (Ref. 6). Thus, the maximum number of workers that could currently be exposed to Sb metal is about 2,250 (Ref. 26).

The AOIA and Mathtech estimates include workers engaged in the production of Sb metal and its first level of processing into products containing Sb metal (e.g., battery grids and type metal). They do not include "downstream" workers who use such Sb metal-containing products. However, EPA expects exposure of such downstream workers to Sb metal to be small because Sb metal normally is used in alloys containing a substantially larger proportion of lead and exposure controls used to protect workers from lead will also control their exposure to Sb metal. Furthermore, any Sb metal which is volatilized (e.g., in casting the alloys into final products) is expected to oxidize to Sb_2O_3 (Ref. 26). Based on the information presented above, EPA concludes that fewer than 2,250 workers are potentially exposed to Sb metal, and that most of those workers will, in fact, be exposed principally to Sb_2O_3, rather than to Sb metal.

2. *Antimony Trioxide.* The ITC report cited a projection (Ref. 22) that domestic production of Sb_2O_3 for 1978 would be 70 million pounds (Ref. 36). Information available to EPA indicates that this estimate of 1978 production was not achieved and that the actual level of Sb_2O_3 imported and domestically produced in 1978 was 44 million pounds (Ref. 26). The quantity of Sb_2O_3 imported and domestically produced in 1980 was 47 million pounds; the market for Sb_2O_3 is expected to remain stable for the next few years (Ref. 26).

NIOSH estimated that of the 1.35 million workers exposed to "antimony", 81,793 workers were potentially exposed to Sb_2O_3 during 1970 (Ref. 29). EPA believes that NIOSH's figure overestimates actual exposure to Sb_2O_3 because NIOSH included workers that might handle textiles or plastics into which Sb_2O_3 had been incorporated as a flame retardant. Antimony trioxide is incorporated into these products in a tightly bound matrix from which release and consequent exposure is not expected during use. The AOIA estimated that the maximum number of workers exposed to any concentration of antimony substances is approximately 2,240 (Ref. 3). Mathtech estimated that there are a total of 1,710–1,880 employees at domestic facilities which produce and process Sb_2O_3 (Ref. 26).

3. *Antimony Sulfied* The ITC did estimate antimony sulfide production (Ref. 36). Sb_2S_3 produced domestically or imported in 1980 included both the refined Sb_2S_3 chemical and Sb_2S_3 ore (stibnite). All of the Sb_2S_3 chemical used domestically in 1980 (68,000 lb) was imported (Ref. 26). Ninety-four percent of the stibnite used domestically in 1980 (12 million pounds) was imported and used to produce Sb_2O_3. The remaining six percent of domestically-used stibnite (0.7 million pounds) was mined by the U.S. Antimony Corp. and used exclusively to produce sodium antimonate (Ref. 26).

As reported by the ITC, NIOSH estimated that of the 1.35 million workers potentially exposed to "antimony", 1,221,000 workers were potentially exposed to antimony sulfide in 1970. EPA believes that NIOSH's figure quite substantially overstimates actual exposure to Sb_2S_3. NIOSH included "downstream" workers that might use products containing Sb_2S_3. Antimony sulfide chemical is used as a fuel to volatilize the dyes in colored smokes of signalling devices and as an ingredient in the priming mixture that ignites explosives (Ref. 26). Actual exposure of "downstream" workers to Sb_2S_3 as a result of such uses is unlikely because of the small quantities of Sb_2S_3 used in these products and the oxidation of Sb_2S_3 during combustion.

The AOIA estimate that the maximum number of workers exposed to any concentration of antimony substances is approximately 2,240 provides an upper limit of the number of workers who may be exposed to Sb_2S_3 (Ref. 3).

Mathtech estimated that exposure to Sb_2S_3 could occur during mining of stibnite and the resultant production of sodium antimonate at the U.S. Antimony Corp., Thompson, MT facility (which employs a total of 11 workers) or at facilities which use Sb_2S_3 chemical, which employ a total number of 220 workers (Ref. 26). An additional 1,710–1,880 workers engaged in coverting imported stibinite into Sb_2O_3 could potentially be exposed to Sb_2S_3 (Ref. 26). Based on the information presented above, EPA concludes that from 200 to 2000 workers may be exposed to Sb_2S_3, although many of these workers will also be exposed to Sb_2O_3.

C. Distribution Disposal, General Population and Consumer Exposure and Environmental Release

The ITC expressed concern that environmental release of and non-worker exposure to "antimony" could result from the mining, hauling and smelting of ore, from the use and disposal of products containing "antimony", and from petroleum and petroleum products, coal and concrete (Ref. 36). The ITC further projected that, when released, Sb_2O_3 would largely accumulate in soil and in aquatic sediments.

Most of the antimony substances used in the U.S. are imported, smelted from imported ore, or recycled from scrap metals. Of the 22 million pounds of ore processed in the U.S. in 1980 to produce antimony substances, only 0.7 million pounds were mined domestically (Ref. 26). EPA expects mining and hauling of antimony-containing ores to be at most a minor contributor to environmental levels of antimony substances because of the small quantities of domestically-mined ore and the treatment of this ore to minimize dust generation e.g., crushing the ore in a closed system and mining, grinding and hauling the ore under wet conditions (Ref. 2).

Processing of antimony-containing ores can result in the atmospheric release of antimony substances and their subsequent settling in soil surrounding processing facilities. For example, antimony substances have been found in soil surrounding smelting facilities for antimony-containing ores at concentrations substantially above background soil levels (Refs. 7, 20).

The incineration of products containing antimony substances and the combustion of fossil fuels containing antimony substances result in atmospheric concentrations of only 1–10 ng/m^3 antimony substances (Refs. 14, 15), levels which are more than a million times lower than the lowest concentration reported to produce adverse effects in laboratory animals (Ref. 39). Therefore, EPA does not expect these activities to be of significance in assessing the general population exposure to antimony substances.

Concentrations of dissolved antimony substances in natural waters range from 1–100 ppt (Refs. 1, 28), while concentrations of antimony substances in aquatic sediments range from <1–11 ppm in Long Island Sound, NY (Ref. 16) and from <1–12,500 ppm in Puget Sound, WA (Ref. 8). Antimony substances also have been reported in municipal sewage sludge (3–18 ppm; Ref. 27) and in sludge-treated soil (1–11 ppm; Ref. 13).

Overall, EPA believes that the available data indicate that environmental releases of antimony substances from industrial production and processing can result in accumulation of antimony substances in soils and in aquatic sediments surrounding production and processing facilities.

EPA does not believe that the use of alloys containing Sb metal in consumer products (e.g., automotive batteries) or the use of Sb_2O_3 as a flame retardant in plastics or textiles will result in significant consumer exposure. The antimony substances contained in such products have negligible volatility, low water solubility, and are enclosed in a tightly bound matrix from which they are not expected to be released during use. Upon disposal, Sb metal contained in automotive batteries can be expected to be recovered through recycling of scrap metal. Incineration of consumer products containing antimony substances would result in atmospheric release (discussed above) and ultimately deposition of these substances to soil or aquatic sediments.

D. Health Effects

EPA has analyzed each of the ITC's health effects testing recommendations. The bases for EPA's conclusions with regard to each health effect are discussed below.

1. *Carcinogenicity.* The ITC recommended that Sb metal, Sb_2S_3 and Sb_2O_3 be tested for carcinogenicity based on a concern that workers exposed to antimony substances may be at increased risk to lung cancer (Ref. 36).

After publication of the ITC report, the Agency received a submission under TSCA section 8(e) from ASARCO, Inc., describing an inhalation study performed by William D. Watt of Wayne State University (Watt Study) (Ref. 39). TSCA section 8(e) requires companies to immediately notify EPA if they obtain information that suggests that a substance they manufacture, process, or distribute may present a substantial risk of injury to health or the environment. The Watt study demonstrated the formation of non-neoplastic (fibrot) and neoplastic lesions (lung tumors) in female rats (only females were used) after one year of observation following one year of exposure (6 h/day, 5 days/week) to Sb_2O_3 at exposure levels of 1.6+1.5 mg/m^3 (non-neoplasms) and 4.2+3.2 mg/m^3 (neoplasms). After receiving the Watt Study, the Agency received another TSCA section 8(e) submission from ASARCO, Inc. (the study sponsor) describing the results of histopathology studies performed on the tissues of animals exposed to Sb_2O_3 during the Watt study (Ref. 11). This second report confirmed the preliminary diagnosis of non-neoplastic and neoplastic lesions in female rats exposed to Sb_2O_3.

Recently, the Agency received a report from Midwest Research Institute (MRI) describing a study in which male and female rats were exposed to levels of 50+40 mg/m^3 Sb_2O_3 or Sb_2O_3 for one year (7 h/day, 5 days/week) and then held for one year of observation (Ref. 41). The histopathology report on this study confirmed development of neoplastic lesions in female rats exposed to Sb_2O_3 and reported development of neoplastic lesions in female rats exposed to Sb_2S_3 (Ref. 12). Male rats developed non-neoplastic lesions resulting from exposure to Sb_2O_3 or Sb_2S_3, but did not develop neoplastic lesions.

Although the Watt and MRI studies demonstrated that inhalation of Sb_2O_3 or Sb_2S_3 can produce oncogenic effects in female rats, the Agency finds neither study adequate to reasonably determine or predict the oncogenic risk to humans exposed to these substances. Use of only one sex in the Watt study, use of only one exposure level in the MRI study, and the lack of adequate control of exposure levels in both of these studies makes their use as a basis for risk estimation difficult. Therefore, EPA believes that further testing to characterize the oncogenic effects of exposure to Sb_2O_3 or Sb_2S_3 is warranted.

The Agency is aware of no data describing the oncogenic potential of Sb metal. There is no significant exposure to Sb metal because Sb metal is not present in the workplace as an airborne particulate (Ref. 3), because it is oxidized to Sb_2O_3 during processing (Ref. 26). Therefore, EPA would expect that the oncogenic risk of exposure to respirable particles of antimony substances as a result of production or processing of Sb metal is generally equivalent to that of exposure to a corresponding concentration of Sb_2O_3.

2. *Mutagenicity.* The ITC cited an abstract (Ref. 23) that Sb_2O_3 had produced a positive result in the Rec Assay (Ref. 36). EPA believes that this study provides weakly suggestive evidence that Sb_2O_3 may produce mutagenic effects in mammals because of the low water solubility of Sb_2O_3 (7–9 mg/L) compared to the high concentration of Sb_2O_3 (730–14, 600mg/L depending on diffusion rate) that proved necessary to produce a positive result in the Rec Assay (Ref. 24). The ITC also reported that an organic antimony salt, sodium antimony tartrate, with a water solubility of 8,000 mg/L, produced chromosomal aberrations *in vitro* in plant, insect and human cells (Ref. 31). The Agency does not believe these data are relevant to assessing the mutagenicity of Sb metal, Sb_2O_3 or Sb_2S_3 because of the differences in physical and chemical properties (including significant differences in water solubility) of sodium antimony tartrate and the antimony substances recommended for testing by the ITC. Taking these data into consideration, the Agency is unable to conclude that exposure to antimony substances might

present an unreasonable risk of mutagenicity.

In addition, EPA believes that further mutagenicity testing of the antimony substances would be difficult to perform because of the scarcity of validated *in vitro* methods to dissolve antimony substances for mutagenicity testing. EPA has concluded that further mutagenicity testing of Sb metal, Sb_2O_3 and Sb_2S_3 should not be required at this time, because of the weakly suggestive evidence of their possible mutagenicity, the unavalilbility of suitable *in vitro* test methods, and the high cost of *in vivo* testing. If these substances were to produce mutagenic effects, in EPA's judgement these effects would be produced at much higher levels than carcinogenic effects. Exposure controls to protect workers against carcinogenicity therefore would be likely to protect workers against mutagenic effects.

3. *Chronic Toxicity.* The ITC was concerned about chronic respiratory disorders and degeneration of the heart, kidneys, and liver resulting from exposure to "antimony" (Ref. 36).

The inhalation studies in rats conducted by Watt (Ref. 39) and Wong *et al.* (Ref. 41) substantiated the ITC concern regarding respiratory effects.

The histopathological examinations performed in the Watt and Wong *et al.* Studies detected no adverse effects of inhalation of Sb_2O_3 or Sb_2S_3 on the heart, kidneys, or liver of rats exposed for one year and observed for a second year (Refs. 11, 12). EPA believes that further tests to evaluate the effects of chronic inhalation exposure to antimony substances should evaluate the effects on the lungs and related tissues.

4. *Reproductive Effects.* The ITC's concern about reproductive effects resulting from chronic exposure to antimony substances (Ref. 36) was based on: (1) studies performed during 1962–1964 to compare the repoductive potential of women working in a U.S.S.R. antimony metallurgical plant with that of women working in the chemical laboratory of the same plant; and (2) experiments by the same investigator with female rats to evaluate the potential of Sb_2O_3 to produce reproductive effects (Ref. 5).

The exposure level in the animal study (250 mg/m^3) is 500 times higher than the current OSHA Threshold Limit Value (TLV) of 0.5 mg/m^3 for antimony substances (29 CFR 1910.1000) and 150 times higher than the mean level that produced non-neoplastic respiratory lesions in a more recent U.S. study (Ref. 39). Furthermore, the Agency believes that there were serious inadequacies in the protocols used for the Soviet studies (e.g., no measured exposure levels and selection of a questionable control in the human study, and employment of only one sex and one dose in the animal study). Therefore, there is at best a very weak basis for finding that antimony substances may present a risk of reproductive effects. Although the available data are inadequate to provide complete assurance that current U.S. exposures to anitmony substances present no unreasonable risk of reproductive effects, those data strongly suggest that control of exposure to antimony substances sufficient to protect against neoplastic and non-neoplastic respiratory injury also will reasonably protect against the risk of reproductive effects. Therefore, EPA does not believe that further testing of antimony substances for reproductive effects is needed at this time.

5. *Teratogenic Effects.* The ITC was concerned about teratogenic effects, citing the Soviet report of reproductive effects discussed above (Ref. 36). The Agency knows of no evidence which would suggest that effects on the reproductive system are indicative of teratogenic effects. In addition, EPA is not aware of any other data which suggest or provide evidence that Sb metal, Sb_2O_3 or Sb_2S_3 may be teratogenic. Therefore, the Agency has no basis for finding that antimony substances may present an unreasonable risk of teratogenic effects and thus, finds no basis to require teratogenicity testing of Sb metal, Sb_2O_3 and Sb_2S_3.

6. *Epidemiology Studies.* The ITC recommended that epidemiological studies be performed to evaluate the chronic human effects of exposure to antimony substances (Ref. 36). As discussed in Unit III, epidemiology, monitoring and medical surveillance programs are currently being conducted or are proposed by industry. EPA believes that these studies will provide appropriate epidemiological data to be considered in conjunction with the proposed health effects studies in assessing the human health effects of exposure to the anitmony substances.

E. Environmental Effects and Chemical Fate

The ITC was concerned that antimony substances would accumulate in the soil/sediment system and possibly cause environmental effects because of their hypothesized persistence (Ref. 36). The ITC also was concerned that antimony substances might be toxic to terrestrial plants and soil microorganisms and that they might have chronic effects on aquatic organisms at potential environmental concentrations. However, the ITC concluded that acute aquatic toxicity of antimony substances could only occur at concentrations higher than expected environmental levels and therefore did not recommend that additional acute aquatic toxicity tests be considered.

As discussed above (Unit II.C), EPA agrees that releases of antimony substances to the environment can be expected to accumulate in soil and sediment near production and processing facilities. EPA believes that testing should be performed to better characterize the potential for antimony substances deposited on soil to be transported by the movement of water through the soil and to be solubilized and/or converted to other antimony substances in aerobic and anaerobic aquatic sediment systems. Low levels (1–300 parts per trillion) of antimony cations ($Sb+3$ and $Sb+5$), methylstibonic acid and dimethylstibinic acid have been detected in fresh, estuarine and marine waters, suggesting that biotransformation of antimony substances may occur in the natural environment (Refs. 1, and 28).

As concluded by the ITC, existing information suggests that dissolved concentrations of antimony substances in natural waters (1–100 ppt; Refs. 1, 28,) are unlikely to cause acute toxicity in aquatic vertebrates, invertebrates or alga (Refs. 9, 25, 35). Moreover, experiments performed in hard and soft water, which would affect the solubility and bioavailability of Sb_2O_3, demonstrated that concentrations of Sb_2O_3 10–20 times higher than the water solubility did not produce any mortality in rainbow trout after 7 days exposure (Ref. 38). Information on bioconcentration of antimony substances for freshwater fish and benthic invertebrates suggests a bioconcentration factor of 1–100 (Refs. 21, 34, 35), a factor which is sufficiently low to suggest that no further aquatic toxicity testing is necessary (Ref. 4).

The Agency agrees with the ITC that the available data related to the chronic aquatic toxicity and bioconcentration of antimony substances may be insufficient to characterize the potential for chronic effects on aquatic organisms resulting from release of these substances to the aquatic system. However, the Agency believes that data to characterize the solubilization and bioavailability of antimony substances from soils and aquatic sediments must be developed before the need for and design of such aquatic toxicity testing can be resolved. Therefore, with respect

to chronic toxicity testing and bioconcentration testing, the Agency has concluded that such testing is not necessary at this time.

With respect to other environmental effects, the Agency believes there is sufficient information to characterize the risk resulting from the release of antimony substances to terrestrial environments. Soil levels of 5–500 ppm Sb_2O_3 were toxic to plants (Ref. 32); such levels of antimony substances may exist in limited areas near smelters which process antimony-containing ores but release of antimony substances from these smelters is expected to have a negligible ecological impact on plants outside their immediate vicinities because negligible quantities of antimony substances are expected to enter these soils (Refs. 7, 20). EPA has concluded that further terrestrial plant testing of antimony substances is not necessary because sufficient information exists to characterize this risk.

The ITC was concerned that antimony substances might be toxic to terrestrial microorganisms and might potentially interfere with nutrient cycling (Ref. 36). The Agency knows of no evidence which would suggest that antimony substances are toxic to terrestrial microorganisms and which would suggest that they might interfere with nutrient cycling. Therefore, the Agency has no basis for finding that antimony substances may present an unreasonable risk of effects to terrestrial microorganisms and their capacity to cycle nutrients, and thus, finds no basis to require testing the effects of Sb metal, Sb_2O_3 and Sb_2S_3 on terrestrial microorganisms.

Unless it is found that environmental transformation mechanisms increases the bioavailability of antimony substances contained in soil or aquatic sediments, antimony substances at existing environmental concentrations are not expected to present a risk to granivorous or omnivorous birds. These substances have limited absorption through the gastrointestinal tract (Refs. 18, 19) and potentially inhaled atmospheric environmental levels are about a million times lower than the lowest known toxic inhaled dose (see Unit II.C above). The EPA knows of no evidence which would suggest that antimony substances produce adverse effects in birds. Therefore, the Agency has no basis for finding that antimony substances may present an unreasonable risk of effects to birds and thus, finds no basis for requiring testing the effects of antimony substances in birds.

III. AOIA's Proposed Program

On July 2, 1982, the Agency received a proposal to develop a comprehensive monitoring, control, medical surveillance, epidemiology and testing program on antimony substances from the Antimony Oxide Industry Association (AOIA). The AOIA consists of the domestic manufacturers of Sb metal, Sb_2O_3 and Sb_2S_3: Anzon America, Inc., ASARCO, Inc., Harshaw Chemical Co., M & T Chemicals, Inc., McGean-Rohco, Inc., and PPG Industries, Inc.

The AOIA's proposed program would: (1) monitor and control workplace exposure to antimony substances; (2) initiate a medical surveillance program and continue existing epidemiology studies on such exposure; (3) develop additional animal toxicological data on the effects of inhalation exposure to Sb_2O_3; (4) monitor and control the atmospheric release of antimony substances; and (5) study the chemical fate of Sb_2O_3 in soils and sediments (Ref. 3).

The design of this program resulted from discussions between representatives of the AOIA and EPA's Office of Toxic Substances. Component parts of the program are briefly outlined below. A complete description of this program is in the public record (see Unit VI of this Notice). The AOIA will provide EPA with periodic reports on the program described below. These will be used by the Agency, in combination with plant visits, meetings and lab audits, to evaluate the AOIA's progress towards meeting the objectives of their proposed program.

A. Monitoring and Controlling Workplace Exposure

The AOIA has proposed a monitoring and control program which is designed to limit occupational exposure to antimony substances while data are developed to permit a more complete understanding of the potential health effects resulting from such exposure.

Sampling of air concentrations of antimony substances will be performed both annually and whenever there is a significant change in an antimony-related industrial process that can be expected to affect exposure levels. The purposes of such sampling will be twofold: (1) To determine the personal exposure of workers and (2) to ensure proper demarcation of mandatory respirator workzones by determining air concentrations of antimony substances in particular locations.

Sampling to determine the calculated employee exposure level of exposed workers will be conducted with portable sampling devices that are worn by the employee and which sample the concentration of respirable particles (capable of being inhaled and transported to the alveoli) of antimony substances in the air within the employee's personal breathing space. Sampling for the designation and periodic reevaluation of mandatory respirator workzones will be conducted using either portable or stationary sampling devices, as may be appropriate.

In clearly marked mandatory respirator workzones where levels of antimony substances exceed an 8-hour Time-Weighted Average (TWA) of 0.2 mg/m^3, respirators will be worn by employees to reduce exposure below 0.2 mg/m^3. The number 0.2 mg/m^3 is below the current OSHA permissable exposure level (PEL) of 0.5 mg/m^3 for antimony substances. A combination of engineering controls and administrative measures will be utilized in conjunction with the respirator program to monitor and control occupational exposure to antimony substances as described in the AOIA proposal. Each AOIA member firm will also take other steps to ensure the health of its employees, including: (1) Providing safety labels on packages of antimony substances; (2) issuing written work performance practices; (3) providing necessary protective clothing; (4) ensuring proper sanitation practices; (5) using proper storage procedures; and (6) having available emergency procedures for incidents of accidental over-exposure. Appropriate information will be made available to customers to apprise them of the possible risks associated with exposure to antimony substances and to assist them in assuring that their employees are not significantly exposed to such substances.

B. Performing Medical Surveillance and Epidemiology Studies

1. *Medical Surveillance Program.* Comprehensive medical and employment profiles (including annual physical examinations and clinical testing) will be developed for employees scheduled for assignment to job categories requiring their regular presence in mandatory respirator zones. Medical and employment profiles will be retained for at least 30 years after the last work-related exposure.

2. *ASARCO Epidemiology Study.* Epidemiological data concerning health effects of exposure to antimony substances have been developed as an adjunct to an epidemiology study of the effects of worker exposure to lead in the ASARCO lead smelter in East Helena, Montana. Since the lead concentrates

processed by the East Helena smelter contain, and have contained for many years, varying amounts of antimony substances, it appears that the lead smelter workers have been exposed to low levels of antimony substances throughout the period covered by the epidemiology study.

Personal monitoring data collected for antimony substances during 1977–1981 show average exposure levels (from 3 to 8 hours of exposure) generally in the range between 0.01 and 0.1 mg/m^3, with some exposures ranging as high as 2.08 mg/m^3. There are no data on the levels of exposure to antimony substances for the earlier period of the study, but it can be surmised that exposure levels may have been greater in the past when less stringent controls were employed for exposure to lead.

The study population is made up of 437 male employees who worked for at least one year during the period between January 1, 1946, to December 31, 1970. During the 7,871 man-years of observation between January 1, 1947, and December 31, 1975, 81 deaths were reported. To date, there have been two lung cancer deaths reported, with 3.4 expected in a control population; there have been four deaths due to non-neoplastic respiratory disease, with 2.9 expected.

3. *Anzon Epidemiology Study.* The most comprehensive epidemiology study to date for evaluating the chronic health effects of exposure to antimony substances is one sponsored by Anzon Limited in the United Kingdom. The Anzon study involves workers engaged in production of antimony substances and zircon in the Anzon Limited works at Newcastle-upon-Tyne. This study was initiated in 1961. Its objective is to record the work histories of persons exposed to antimony substances in production operations and to document the causes of any deaths that occur in this worker population.

Data have been collated for the first twenty years of the Anzon study. The total number of male workers in the study population is 2,104, of whom 453 joined before and 1,651 joined after January 1, 1961, the starting date of the study. The principal group of employees on which Anzon has developed epidemiology data consists of the 1,651 workers joining after the 1961 starting date of the study. It is only for this group that the full cohort is known and exposure data are available. The Agency has received interim reports describing preliminary results of this study and has requested additional information on causes of death, vocational history and smoking habits for the 98 workers who have died since joining Anzon Limited after 1961. The Agency believes that the Anzon study, as well as the ASARCO study described above, will provide useful information on the human health effects resulting from occupational exposure to antimony substances.

C. Developing Animal Toxicology Test Data for Sb_2O_3

The AOIA will sponsor two inhalation studies with Sb_2O_3. A subchronic inhalation study will expose groups of male and female rats to four exposure concentrations of Sb_2O_3 for 13 weeks followed by a 20–30 week observation period. This study is expected to: (1) establish the relationship between exposure levels and the rate of pulmonary retention and clearance of Sb_2O_3; (2) assess the pathogenesis and dose/response characteristics of histopathological changes in the rat lung resulting from such subchronic exposure to Sb_2O_3; (3) monitor tissue fluids and lung levels of antimony at different exposure levels and times; and (4) determine appropriate exposure levels for a chronic inhalation study.

A chronic inhalation study will expose groups of male and female rats to three exposure concentrations of Sb_2O_3 for 1 year followed by a 1 year observation period. This study will: (1) measure pulmonary retention and clearance of Sb_2O_3; and (2) assess the pathogenesis and dose/response characteristics of neoplastic and non-neoplastic lesions of the rat lung and other related tissues resulting from such chronic exposure.

D. Performing Environmental Monitoring and Control

The producers will conduct sampling of air concentrations of antimony substances at the property boundary of each production facility or in the nearest downwind residential area. Prior monitoring studies using 24-h high volume samplers found levels of atmospheric antimony substances that ranged from 0.05–0.64 ng/m^3 (10^{-6}mg/m^3) in pristine locations (Ref. 10) and 5.2–1,210 ng/m^3 near smelting operations (Ref. 33). If the 90-day average air concentration level of respirable antimony substances exceeds 0.005 mg/m^3 above background levels as measured in a clean local environment free of anthropogenic sources, the producer will expeditiously adopt the emission controls that are feasible and appropriate to meet the air concentration level that is 0.005 mg/m^3 above background. The AOIA selected 0.005 mg/m^3 as the threshold level for environmental release because it is 1/100th of the level determined to be safe for workers by the current OSHA PEL of 0.5 mg/m^3 (Ref. 3).

E. Developing Environmental Fate Data for Sb_2O_3

Data on the transport of Sb_2O_3 in soil/sediment will be obtained using the TSCA Test Guideline for Soil Thin Layer Chromatography (Ref. 37). Data on the persistence, solubilization and biotransformation of Sb_2O_3 in aerobic and anaerobic aquatic environments will be obtained using: (1) the protocols described by Hallas *et al.* (1982) (Ref. 17) or Wong *et al.* (Ref. 40) for detection of volatile Sb_2O_3 biotransformation products; and (2) the process developed by Andreae *et al.* (Ref. 1) or Nakashima (Ref. 28) for detecting Sb^{+3}, Sb^{+5} and organic antimony substances. Data from these studies will be used to estimate the accumulation potential of antimony substances in soils and sediments and to estimate concentrations of dissolved antimony substances that might be bioavailable in natural waters contacting soils or sediments containing antimony substances.

F. AOIA Program Schedules

After EPA's consideration of public comments on their proposed program and based upon EPA's approval of their final program, the AOIA will initiate: (1) Programs to monitor and control exposure to antimony substances in the workplace and in the environment; (2) medical surveillance program; (3) chemical fate testing program; and (4) solicitation of competitive bids from contract testing laboratories to perform the toxicological testing. Interim results from the fate tests will be reported in AOIA's periodic reports. AOIA will submit final reports on the fate tests to the Agency in mid-1984.

The process of selecting a toxicological testing laboratory and completing a contract arrangement will take approximately four months. The schedule for conducting the toxicological testing is provided below.

The subchronic phase of testing can be expected to begin by mid-1983. The subchronic testing itself will be completed in 8–11 months i.e., early to mid-1984 (depending on the length of the observation period). An additional three months will be required for preparation of the study report and consultation among AOIA and EPA scientists concerning the implications of the results as they relate to selection of exposure levels for the next phase of the study.

It is anticipated that the chronic study will begin within 60 days of completion of these consultations on the subchronic

work. Therefore, exposures for the chronic study should commence in late-1984. The study would be completed in late 1986, and complete data would become available as soon as a final report could be prepared, i.e., in 3–6 months after completion of the study (early to mid-1987).

G. GLP's and Other Provisions

The AOIA will provide EPA with the names and addresses of laboratories conducting tests in its program as soon as they are available. The specific tests being performed by each laboratory will be indicated.

The AOIA will assure that testing is conducted in accordance with the FDA Good Laboratory Practice Standards (GLPs) (43 FR 59986, December 22, 1978).

The AOIA will arrange for EPA to have access to the laboratories where the research is being conducted for the purpose of performing quality assurance audits. These inspections (which may be authorized under TSCA section 11) may be conducted for purposes which include verification that testing has begun, that schedules are being met (or delays reported), that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted with adequate quality assurance procedures.

The AOIA has agreed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of the studies will be retained for at least 10 years from the date of the program's acceptance by EPA and will be made available during an inspection or submitted to EPA if requested by EPA or its authorized representative.

AOIA acknowledges that the data which will be developed under its program are health and safety studies, and that TSCA section 14(b)(1)(A)(i) will govern Agency disclosure of all test data that will be submitted to the Agency by the AOIA.

The Agency plans to publish quarterly in the Federal Register a notice of the receipt of any test data submitted to it by AOIA. Subject to TSCA section 14, the notice will provide information similar to that described in TSCA section 4(d). Except as otherwise provided in TSCA section 14, such data will be made available by EPA for examination by any person.

If there are significant deviations from the testing proposal, EPA may consider the resulting data insufficient to evaluate the potential risks presented by antimony substances. In such cases, a data gap may still exist, and the Agency may decide to promulgate a test rule to fill this data gap.

IV. Basis for Decision Not To Initiate Rulemaking

As discussed below, EPA believes that the AOIA's proposed program will adequately meet the testing needs determined by the Agency for Sb metal, Sb_2O_3 and Sb_2S_3. For this reason, EPA has decided not to initiate rulemaking under section 4(a) of TSCA to require testing of Sb metal, Sb_2O_3 and Sb_2S_3.

EPA believes that the AOIA proposed program will provide the needed data more expeditiously than would a test rule and, in addition, will provide for reduced exposure to antimony substances at production and user facilities and limit airborne release of antimony substances from such facilities while additional health and environmental data are being developed. Although the available toxicological data are inadequate to provide complete assurance that the interim exposure and release levels provided by the AOIA program will fully protect against all possible health risks from exposure to antimony substances, the proposed controls will reduce exposure below the OSHA PEL of 0.5 mg/m³ and will reduce exposure well below all known effect levels.

TSCA section 4(a)(1)(A) states that EPA must require testing if it finds that: (1) the manufacturing, distribution, processing, use or disposal of a chemical may present an unreasonable risk of injury to health or the environment; and (2) insufficient data exist to reasonably determine or predict the effects of such activities; and (3) testing is necessary. Under TSCA section 4(a)(1)(B) testing is to be required if a chemical substance: (1) is or will be produced in substantial quantities and it enters/may enter the environment in substantial quantities or there is or may be significant or substantial human exposure; and (2) insufficient data exist to reasonably determine or predict the effects of the substance's manufacturing, distribution, processing, use, and disposal; and (3) testing is necessary.

EPA has concluded that its determination of the need for health effects testing of Sb metal, Sb_2O_3 and Sb_2S_3 should be based on TSCA section 4(a)(1)(A) rather than section 4(a)(1)(B) because the analysis presented in Unit II of this Notice does not indicate to the Agency that there is either significant or substantial human exposure to the antimony substances as those terms are used in section 4(a)(1)(B). However, based on the information presented in Unit II, EPA has concluded that the antimony substances "may present an unreasonable risk" of chronic toxicity and oncogenicity. Available data do not support making such a finding for mutagenic, teratogenic and reproductive effects. In view of the ongoing industry epidemiology studies, EPA has concluded that further epidemiology studies are not "necessary" at this time in the context of section 4(a)(1)(A)(iii).

The studies proposed by the AOIA should provide the information necessary to perform an adequate risk assessment of the oncogenic and non-oncogenic chronic effects resulting from exposure to airborne antimony substances. Although the Agency normally would expect oncogenicity studies to be conducted for a minimum of two years, in this case EPA believes that one year of inhalation exposure followed by one year of observation will be adequate to detect chronic and oncogenic effects of Sb_2O_3 because the two previous studies have demonstrated significant development of non-neoplastic and neoplastic lesions using that exposure-observation schedule. Similarly, EPA believes that the data generated from testing one species (rat) will be adequate to provide an adequate risk assessment for fibrogenic and oncogenic effects resulting from inhalation exposure to antimony substances because the response of the rat to Sb_2O_3 in the previous studies demonstrated that species' sensitivity to the effects of concern and indicated that the dose-response relationship developed for Sb_2O_3 should also be protective against exposures to Sb_2S_3. As discussed in Unit II, inhalation exposures ostensibly to Sb metal are, in fact, expected to be to Sb_2O_3. Thus, the Agency proposes to accept the testing protocols of the AOIA *in lieu* of requiring the standard 2-year, 2-species oncogenicity bioassay. Complete details of the protocols for these studies are contained in the AOIA's proposed program (Ref. 3).

From the analysis presented in Unit II, EPA has also concluded that data related to the chemical fate and environmental effects of Sb metal, Sb_2O_3 and Sb_2S_3 should be developed to determine the accumulation potential of antimony substances in soil/sediment systems and to determine the biotransformation potential of antimony substances in aerobic and anaerobic aquatic sediment systems.

The Agency believes that the proposed AOIA biotransformation tests will provide sufficient information on the solubility and bioavailability of antimony substances and their biotransformation products to determine the need for and/or type of any additional environmental effects testing that may be necessary to assess the

effects of antimony substances on the environment. Furthermore, the Agency believes that the proposed AOIA soil/sediment tests will provide estimates of antimony substance's mobility in soil/sediment systems and as such provide adequate information on the accumulation potential of antimony substances in soil/sediment systems. The Agency believes there is a need to obtain information on this accumulation potential as it relates to the increased probability of enchancing the concentration of antimony substances to toxic levels which may present an unreasonable risk of effects to terrestrial and benthic organisms. The EPA has concluded that until such information on the solubility and bioavailability has been developed, that testing the effects of antimony substances on terrestrial and benthic organisms is unnecessary.

The Agency agrees with the AOIA proposal to use Sb_2O_3 as the test substance for chemical fate testing because among the three antimony substances recommended by the ITC it is released in the greatest quantities and is one of the most probable substrates for adsorption/desorption and transformation based on chemical thermodynamic equilibria (Ref. 1).

V. References

(1) Andreae MO, Asmode JF, Foster P, Van't dack L. 1981. Determination of antimony (III), antimony (V) and methylantimony species in natural waters by atomic absorption spectrometry with hydride generation. Anal. Chem. *53:* 1766–1771.

(2) Arthur D. Little, Inc. 1976. Literature study of selected potential environmental contaminants: Antimony and its compounds. Washington, D.C.,: Office of Toxic Substances, Environmental Protection Agency. (EPA 560/2.76/002).

(3) Antimony Oxide Industry Association (AOIA). 1982. Voluntary program of industrial hygiene, control and study of exposures to antimony metal, antimony trioxide and antimony sulfide, monitoring and environmental release of antimony substances and environmental fate testing. Covington and Burling (Counsel for AOIA), Washington, D.C.

(4) Beck LW, Maki AW, Artman NR, Wilson ER. 1981. Outline and criteria for evaluating the safety of new chemicals. Regulatory Toxicology and Pharamacology *1:* 19–58.

(5) Belyaeva AP. 1967. The effect of antimony on reproductive function. Gig. tr. Prof. Zabol. *11:* 32–37.

(6) CMR. 1981. Gulf Resources to shut Bunker Hill operation; focus on energy is set. Chemical Marketing Reporter. p. 3 August 31, 1981.

(7) Crecelius EA, Johnson CJ, Hofer GC. 1974. Contamination of soils near a copper smelter by arsenic, antimony and lead. Water Air Soil Pollut. *3:* 337–342.

(8) Crecelius EA, Bothner MH, Carpenter R. 1975. Geochemistries of arsenic, antimony, mercury and related elements in sediments of Puget Sound. Environ. Sci. Technol. *9:* 325–333.

(9) Dorfman D. 1977. Tolerance of *Fundulus heteroclitus* to Different metals in salt waters. Bull. New Jersey Academ. Sci. *22:* 21–23.

(10) Duce RA, Hoffman GL., Zoller WH. 1975. Atmospheric trace metals at remote northern and southern hemisphere sites: pollution or natural? Science *187:* 59–61.

(11) EPL. 1981. Pathology report—chronic inhalation study of antimony trioxide. TSCA § 8(e) submission 8 EHQ–0281–0342. Environmental Pathology Laboratories, Inc., Herndon, VA.

(12) EPL. 1982. Pathology report—carcinogenicity and toxicity of inhaled antimony trioxide and antimony ore concentrate in rats. Environmental Pathology Laboratories, Inc., Herndon, VA.

(13) Furr AK et al. 1976. Multielement absorption by crops on Ithaca sludge-amended soil. Bull. Envriron. Contam. Toxicol. *16:* 756–763.

(14) Gladney ES, Gordon GE. 1978. Coal combustion: source of toxic elements in urban air. J. Environ. Sci. Health *A13:* 481–491.

(15) Greenburg RR, Zoller WH, Gordon GE. 1978. Composition and size distributions of particles released in refuse incineration. Environ. Sci. Technol. *12*(5): 566–573.

(16) Greig RA, Reid RN, Wenzloff DR. 1977. Trace metal concentrations in sediments from Long Island Sound. Mar. Pollut. Bull. *8:* 183–188.

(17) Hallas LE, Means JC, Cooney JJ. 1982. Methylation of tin by estuarine microorganisms. Science *215:* 1505–1506.

(18) Hazelton Laboratories. 1979. Antimony oxide 13—week, subchronic feeding study—rat. Hazelton Laboratories, Vienna, VA.

(19) Hazelton Laboratories. 1979. Antimony oxide 13-week, subchronic feeding study—mice. Hazelton Laboratories, Vienna, VA.

(20) Heilman PE, Ekuan GT. 1977. Metals in gardens near ASARCO smelter, Tacoma, Washington: Washington State University, EPA Contract No. 68–01–2989, 86 pp.

(21) Hildebrand SG. 1976. The potential toxicity and bioaccumulation in aquatic systems of trace elements present in aqueous coal conversion effluents. Trace Subst. Environ. Health. *10* :305–313.

(22) Hishida S. 1977. Minor metals survey. pp. 13–18. In Norman J. Connell (ed.) Metal Bulletin, Ltd. London.

(23) Kanematsu K., Kada T. 1978. mutagenicity of metal compounds (Abstr.). Mutation Res. *53:* 207–208.

(24) Kanematsu K, Hara M, Kada T. 1980. Rec assay and mutagenicity studies on metal compounds. Mutat. Res. *77:* 109–116.

(25) Le Blanc GA. 1980. Acute toxicity of priority pollutants to water flea (*Daphnia magna*). Bull. Environ. Contam. Toxicol. *24:* 684–691.

(26) Mathtech. 1982. Level I Economic Evaluation: The Antimony Substances (March 1982). Mathtech, Arlington, VA. 85 pp.

(27) Nadkarni RA, Morrison GH. 1974. multielement analysis of sludge samples by instrumental neutron activation analysis. Environ. Lett. *6:* 273–285.

(28) Nakashima S. 1980. Selective determination of antimony (III) and antimony (V) by atomic-absorption spectrophotometry following stibine generation. Analyst *105:* 732–733.

(29) National Institute for Occupational Safety and Health (NIOSH). 1977. National Occupational Hazard Survey (NOHS). DHHS Publ. No. 78–114. U.S. Government Printing Office (GPO), Washington, D.C.

(30) NIOSH. 1978. Criteria for a recommended standard: occupational exposure to antimony and its compounds. DHHS Publ. No. 78–216, U.S. GPO, Washington, D.C.

(31) Patton GR, Allison AC. 1972. Chromosome damage induced by metal salts. Mutat. Res. *16:* 332–336.

(32) Pearce JA. 1978. The effect of antimony on plants. Ph.D. Dissertation, University of Newcastle-upon-Tyne, Newcastle-upon-Tyne, U.K.

(33) Ragaini RC, Ralston HR, Roberts N. 1977. Environmental trace metal contamination in Kellogg, Idaho near a lead-smelting complex. Environ. Sci. Technol. *11*(8): 773–781.

(34) Shuman MS, Smock LA, Haynie CL. 1977. Metals in the water, sediment and biota of the Haw and New Hope Rivers, North Carolina. Raleigh, N.C. (UNC–WRRI–77–124, PB–272–629).

(35) U.S. E.P.A. 1978. In-depth studies on health and environmental impacts of selected water pollutants. U.S. Environmental Protection Agency Contract No. 68–01–4646.

(36) U.S.E.P.A. 1979. Fourth Report of the Interagency Testing Committee to the Administrator, Environmental Protection Agency: Receipt of the report and request for comments regarding priority list chemicals. **Federal Register** June 1, 1979, 44 FR 31866.

(37) U.S.E.P.A. 1982. Soil Thin-Layer Chromatography (FC 1700) O.P.T.S. Chemical Fate Test Guidelines. National Technical Information Service. Springfield, Virginia. PB82–233006.

(38) Water Pollution Research Lab., Sterenage U.K. 1966. The toxicity of antimony trioxide to rainbow trout. Associated Lead Manufacturers Limited. Middlesex, U.K.

(39) Watt WD. 1980. Progress report—summary of results. Chronic inhalation toxicity of antimony trioxide and validation of the TLV. TSCA 8(e) submission 8EHQ–0980–0342. Study submitted by ASARCO, Inc., New York, N.Y.

(40) Wong PTS, Chan YK, Luxon PL. 1975. Methylation of lead in the environment. Nature *253:* 263–264.

(41) Wong LCK et al. 1979. Study of carcinogenicity and toxicity of inhaled antimony trioxide, antimony ore concentrate and thallic oxide in rats. Midwest Research Institute, Kansas City, MO.

VI. Public Record

The EPA has established a public record for this testing decision (docket number OPTS 42021). This record includes:

(1) **Federal Register** notice containing the designation of Sb metal, Sb_2O_3 and Sb_2S_3 to the priority list and all comments received relating to Sb metal, Sb_2O_3 and Sb_2S_3.

(2) Communications (letters, contact reports of telephone conversations, and meeting summaries of Agency-industry and Agency-public meetings.)

(3) Testing proposal and protocols.

(4) Published and unpublished data.

(5) Federal Register notice requesting comment on the negotiated testing proposal and comments received in response thereto.

This record, containing the basic information considered by the Agency in developing the decision, is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m., Monday through Friday in Rm. E-107, 401 M St., SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information received.

[Sec. 4, 90 Stat. 2003; (15 U.S.C. 2061)]

Dated: December 23, 1982.

John W. Hernandez,

Acting Administrator.

[FR Doc. 83-328 Filed 1-3-83; 8:55 am]

BILLING CODE 6560-50-M

[OPTS-47003B; FRL 2262-2]

Acrylamide; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is EPA's response to the Interagency Testing Committee's (ITC's) recommendation that EPA consider requiring environmental effects testing of acrylamide under section 4(a) of the Toxic Substances Control Act (TSCA). On November 2, 1982, the American manufacturers of acrylamide notified the Agency that they had initiated a program to test acrylamide for its acute toxic effects on a representative group of aquatic vertebrates and invertebrates and for its chronic effects on an aquatic invertebrate. EPA believes that the ongoing industry testing program is likely to provide adequate data to reasonably determine or predict the environmental effects of acrylamide. Alternatively, the program's results may raise concerns which might indicate a need for additional testing to characterize acrylamide's chronic effects on aquatic organisms. In either case, the Agency has concluded that it does not have a basis at this time to initiate rulemaking under section 4(a) to require environmental effects testing of acrylamide.

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 USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment.

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of the Act. The ITC designated acrylamide for environmental and health effects testing in its Second Report, submitted to the Agency on April 10, 1978, as published in the Federal Register of April 19, 1978, (43 FR 16684).

EPA's response regarding the testing of acrylamide for health effects was published in the Federal Register of July 18, 1980 (45 FR 48510). Consideration of the environmental effects of acrylamide was deferred at that time pending the development of environmental effects test standards.

The reasons for the ITC's recommendation for environmental effects testing were: (1) The high production volume of acrylamide, (2) the uses of both acrylamide and polyacrylamide which bring acrylamide into direct contact with the environment, and (3) the knowledge that acrylamide is highly toxic to the nervous systems of mammals coupled with very little knowledge of its environmental release and ecological effects. The ITC expressed particular concern for acrylamide's effects on plant and animal life in the aquatic environment and its ability to be leached from polyacrylamide.

II. Acrylamide's Release to the Environment—Environmental Fate and Effects

Acrylamide is produced in the United States by three manufacturers at four locations (Ref. 21). It is also imported, mainly from Japan (Ref. 23). The 1979 production and importation figures for acrylamide were 66 million and 1.3 million pounds, respectively (Refs. 14 and 28). Eighty-eight percent of the acrylamide produced goes into the manufacture of polyacrylamide, with the remaining acrylamide used for soil grouting, as an intermediate in the synthesis of N-substituted monomers, in gel chromatography, and in electrophoresis (Ref. 26). Polyacrylamide is used primarily as a flocculant in the treatment of wastewater and drinking water. Another major market for polyacrylamide is the pulp and paper industry, where it is used, among other things, as a dry-strength additive, especially in the manufacture of high quality white paper (Refs. 14 and 24). From these uses, contamination of water by residual acrylamide monomer is possible; environmental contamination is also possible through its use as a chemical grout. Chemical grouts are used in a variety of applications including repair of sewer lines; waterproofing mines, tunnels, and foundations; and stabilizing rock and soil in mines, roadbeds, and dams (Refs. 14 and 24). Dow Chemcial Company has estimated that sources of acrylamide exposure (e.g. acrylamide manufacture, storage and transport, polyacrylamide manufacture and use, and acrylamide grouting operations) could provide up to 210,000 pounds of acrylamide monomer for release into the environment annually (Ref. 9). A draft contractor report prepared for EPA estimated a higher figure of 550,000 pounds of acrylamide monomer released annually into the environment (Ref. 14).

Acrylamide is a highly water-soluble compound (216 g/100 ml at 30°C) with a very low vapor pressure (0.007 mm Hg at 25°C) (Ref. 17). Based on its chemical-physical properties and experimental evidence, acrylamide does not adsorb to soils or sediments or bioaccumulate in organisms (Refs. 3, 6, and 15). Acrylamide's chemical-physical properties further indicate that this compound, whatever its release site, will tend to partition into and remain in the aquatic environment until it is degraded (Ref. 25). Acrylamide, under aerobic conditions, has been shown to be readily degraded in freshwater by bacteria with a reported half-life of 55 to 70 hours after acclimation of the bacteria to the compound for 33 to 50 hours (Ref. 4). Half-lives of acrylamide under estuarine or saltwater conditions were slightly longer. Anaerobic degradation, as would occur in sediments, is reported to be very slow, but, as acrylamide binds very poorly to sediments, accumulation in this compartment is unlikely (Refs. 3 and 16).

Environmental monitoring at sites of acrylamide and polyacrylamide

manufacture and use in the United States and Great Britain indicates that levels of acrylamide reaching surface waters from industrial effluents would generally be non-detectable (below 0.08 ppb) to up to 3.4 ppb (Refs. 2, 7, 11, and 12). However, an extreme value of 1,500 ppb was recorded by Going (1978) in a small stream receiving effluent directly downstream from a polyacrylamide producer in Virginia, and local concentrations of acrylamide in similarly high ranges have been found in the vicinity of local grouting operations (Refs. 11, 13, and 19). In the Going (1978) study acrylamide was not detected in water, soil, sediments or air during the course of monitoring other sampling locations either at that site or at sampling locations near four other industrial sites located in the Eastern, Southern and Midwestern United States. The limits of detection for acrylamide in that study were 0.1 to 3.4 ppb, 0.8 ppb and 80 ppb, for air, water, and soil and sediments, respectively.

Acrylamide is considered to be a potent neurotoxicant to mammals; a chronic no-effect level to mammals has been indicated to be an ingested dose of 0.3 to 1.0 mg/kg/day, based on a long term toxicity study on the domestic cat (Ref. 18). Limited information on birds indicates that birds are similarly affected by the chemical (Ref. 10). The Agency has only limited data concerning the effects of acrylamide on aquatic vertebrate species; the data indicate that fish are sensitive to the acute lethal effects of acrylamide in the 100 ppm range (Refs. 8, 10, and 22). The Agency has recently received one study indicating that acrylamide may be extremely toxic to aquatic invertebrates. Establishment of a concentration of approximately 50 ppb of acrylamide in a natural stream in England caused a reduced species diversity to occur among the invertebrate population within six hours after exposure (Ref. 5). Data on the toxicity of acrylamide to plants do not suggest a concern greater than that posed by the compound to animal species (Refs. 1 and 20).

Under present conditions of use and release of acrylamide, no unreasonable risk to the terrestrial or atmospheric environments is expected because exposure to these environmental compartments is expected to be insignificant. However, based on the foregoing information, EPA believes that acrylamide is of potential concern to the aquatic environment (especially the freshwater environment) given its chemical-physical properties and its present use and release pattern. Although the Agency also believes that the exposure of the aquatic environment to acrylamide will be on a local, short-term basis or at very low levels, as demonstrated by available monitoring data, the Agency is concerned that acrylamide may be especially toxic to aquatic invertebrates. The Agency is concerned that acrylamide is a neurotoxicant not only to mammals but also to aquatic organisms. Therefore, testing to evaluate the effects of acrylamide on aquatic organisms should be performed.

III. Testing Program Proposed by Representatives of the Acrylamide Industry

In the spring of 1982, the EPA began discussions with American Cyanamid, Dow Chemical Company, NALCO Chemical Company and the Standard Oil Company of Ohio (herein collectively referred to as Industry) regarding the need for testing of acrylamide to characterize its environmental effects. As a result of EPA's conclusion that aquatic testing was necessary, Industry has initiated a testing program which consists of acute, 96-hour, flow-through toxicity tests on three freshwater vertebrates (the bluegill, fathead minnow and rainbow trout), two freshwater invertebrates (the midge and waterflea) and one saltwater invertebrate (the mysid shrimp). Observations on swimming behavior will be made on the organisms during the testing. In addition, Industry is in the process of contracting to perform a chronic toxicity test on the mysid shrimp. The mysid was considered the best species to use in this case as it requires an intact behavioral response for reproductive success, unlike the midge and waterflea species which are parthenogenic. the protocols for these studies have been reviewed by EPA's scientists and found to be acceptable. They are available for examination in the public record of this proceeding.

Normally when EPA negotiates such a testing program with Industry, the Agency requests that initiation of testing be deferred until EPA can obtain and consider public comments on the proposed testing. However, in this instance the limited nature of the testing and certain contractual reasons led Industry to initiate testing without awaiting final approval by EPA of the program. The results should be available to the Agency early in 1983.

Industry has furnished EPA with the name and address of the laboratory conducting these tests. Industry has stated that it will adhere to the Good Laboratory Practice Standards (GLP's) issued by the U.S. Food and Drug Administration, as published in the **Federal Register** of December 22, 1978 (43 FR 59986). Industry also has offered to permit laboratory audits/inspections in accordance with the authority and procedures outlined in TSCA section 11 at the request of authorized representatives of the EPA. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to Good Laboratory Practices.

Industry has further committed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of each study will be retained as specified in the FDA Good Laboratory Practice Standards, except that all raw data will be retained by the testing laboratory for ten years rather than the two years specified by the FDA GLP's. In addition, the raw data will be made available during an inspection or submitted to EPA if requested by EPA or its authorized representative.

The Agency plans to issue in the **Federal Register** a notice of the receipt of all test data submitted by industry under this test program. Subject to TSCA section 14, the notice will provide information similar to that described in TSCA section 4(d). Except as otherwise provided in TSCA section 14, any data submitted will be made available by EPA for examination by any person.

Should Industy fail to conduct the testing according to the specified protocols or fail to follow Good Laboratory Practices, such actions may invalidate the tests. In such cases, a data gap may still exist, and the agency may decide to promulgate a test rule or otherwise require further testing.

IV. Decision Not To Initiate Rulemaking

The Agency has concluded that there are sufficient data on acrylamide's release, fate and effects to indicate that any potential environmental risk presented by acrylamide given its manufacture, use and release pattern, would be limited to the aquatic environment.

EPA believes that the results of testing being undertaken by Industry, combined with existing data, are likely to provide sufficient data to reasonably predict the aquatic toxicity of acrylamide. Furthermore, the Agency believes that any additional testing should not be considered until EPA has had a chance to fully evaluate the testing being performed currently by industry. In view of these ongoing testing activities, EPA

does not believe that it can find that "testing is necessary" as would be a prerequisite for mandating testing under section 4 of TSCA. Therefore, EPA has decided not to initiate a rule to require further environmental testing of acrylamide at this time. It is conceivable that the results of these tests being performed by Industry may raise concerns which might indicate a need to perform additional testing for chronic effects to aquatic organisms (e.g., if the tests show acrylamide to be highly toxic). EPA will evaluate the need for additional testing when these results are available. If these or other new data reveal a need for further testing which Industry is unwilling to conduct, the Agency can require it through a section 4 test rule at that time.

References

1. Bilderback DE. 1981. *Impatiens* pollen germination and tube growth as a bioassay for toxic substances. Environ. Health Perspect. 37: 95-103.

2. Brown L, Rhead M. 1979. Liquid chromatographic determination of acrylamide monomer in natural and polluted aqueous environments. Analyst (London) 104: 391-399.

3. Brown L et al. 1980. Laboratory studies on the absorption of acrylamide monomer by sludge, sediments, clays, peat and synthetic resins. Water Res. 14: 779-781.

4. Brown L et al. 1980. Model studies of the degradation of acrylamide monomer. Water Res. 14(7): 775-778.

5. Brown L et al. 1982. Qualitative and quantitative studies on the *in situ* adsorption, degradation and toxicity of acrylamide by the spiking of the waters of two sewage works and a river. Water Res. 16: 579-591.

6. Chiou CT, Schmedding DW. 1982. Partitioning of Organic Compounds in octanol-water systems. Environ. Sci. Technol. 16(1):4-10.

7. Croll B et al. 1974. Residues of acrylamide in water. Water Res. 8: 989-993.

8. Dow Chemical Co. 1976. Aqueous acrylamide: environmental behavior of aqueous acrylamide: biodegradability and fish toxicity. Midland, MI: Dow Chemical Co.

9. Dow Chemical Co. 1980. Acrylamide: environmental fate. Midland MI: Dow Chemical Company.

10. Edwards PM. 1975. Neurotoxicity of acrylamide and its analogues and effects of these analogues and other agents on acrylamide neuropathy. Br. J. Ind. Med. 32(1): 31-38.

11. Going JE. 1978. Environmental monitoring near industrial sites: acrylamide. Washington, D.C.: Office of Toxic Substances, U.S. Environmental Protection Agency. EPA 560/6-78-001.

12. Going JE, Thomas K. 1979. Sampling and analysis of selected toxic substances task I: acrylamide. Washington, D.C.: U.S. Environmental Protection Agency, Office of Toxic Substances, EPA 560/13-79-013.

13. Igisu H. Goto I, Kawamura Y, Kato M. Isumi K, Kvroiwa Y. 1975. Acrylamide encephaloneuropathy due to well water pollution. J. Neurol, Neurosurg. Psychiatry 38:581-584.

14. JRB. 1980. JRB Associates Inc. Slimak K, Schochet A, Wagner K, Spooner P, and Burger R. Revised Draft Report. Level I materials balance: acrylamide. Washington, DC: Office of Toxic Substances, U.S. Environmental Protection Agency. Contract No. 68-01-5793.

15. Karickhoff DS et al. 1979. Sorption of hydrophobic pollutants on natural sediments. Water Res. 13(3): 241-248.

16. Lande SS et al. 1979. Degradation and leaching of acrylamide in soil. Envrion. Qual. 8(1): 133-137.

17. MacWilliams D.C. 1979. Acrylamide. In: Kirk RE, Othmer DF, eds. Encyclopedia of chemical technology, 4th ed., Vol. I. New York: John Wiley and Sons, Inc., pp. 296-310.

18. McCollister DD et al. 1964. Toxicology of acrylamide. Toxicol. Appl. Pharmacol. 6(2): 172-181.

19. Schaeffer JE. 1982. Test Rules Development Branch, Assessment Division, Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency. October 18, 1982. Contact Report on a telephone conversation between Leslie Brown and John Schaeffer.

20. Sonoda Y et al. 1977. Behavior of polyacrylamide cohesive agents in the soil-plant system. Gifu Daigaku Nogakubu Kenkyu Hokoky. 40:61-69.

21. SRI. 1981. Stanford Research Institute. 1981 Directory of chemical producers—United States of America. Menlo Park, CA: Stanford Research Institute International.

22. Tooby et al. 1975. The acute toxicity of 102 pesticides and miscellaneous substances to fish. Chem. Ind. 12:523-526.

23. USDOC. Department of Commerce, U.S. Bureau of the Census. Bureau of the Census publication No. 1M-146. Washington, D.C.: U.S. Department of Commerce, p 1379.

24. USEPA. 1980. U.S. Environmental Protection Agency. Support Document. Decision not to require testing for health effects: acrylamide. Washington, DC: Assessment Division. Office of Pesticides and Toxic Substances. U.S. Environmental Protection Agency. EPA 560/11-80-016.

25. USEPA. 1982. U.S. Environmental Protection Agency. October 26, 1982. Memorandum from Russell S. Kinerson to John Schaeffer.

26. USITC. 1980. U.S. International Trade Commission. Synthetic organic chemicals: U.S. production and sales. Washington, D.C.: U.S. International Trade Commission.

V. Public Record

EPA has established a public record for this decision not to pursue testing under section 4, docket number OPTS-47003B, which is available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays, in Rm. E-107, 401 M St., SW., Washington, D.C. 20460. This record includes basic information considered by the Agency in developing this decision. This record includes the following information:

1. **Federal Register** notice containing the designation of acrylamide to the Priority List and any comments on acrylamide in response to that notice.

2. **Federal Register** notice containing the Agency's response to the ITC recommendation that acrylamide be considered for health effects testing under TSCA section 4(a).

3. Communications: (a) Public and inter-agency communications, including memoranda, comments and proposals.

(b) Contact reports of telephone conversations.

(c) Meetings.

4. Industry submitted protocols and testing schedules.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 20601)

Dated: December 27, 1982.

John W. Hernandez,

Acting Administrator.

[FR Doc. 83-328 Filed 1-3-83; 8:45 am]

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[OPTS-42029; TSH-FRL No. 2246-7]

Isophorone; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is EPA's response to the Interagency Testing Committee's (ITC's) recommendation that isophorone be tested for health effects under section 4(a) of the Toxic Substances Control Act (TSCA). Following publication of the ITC report, the National Toxicology Program initiated a long-term bioassay of isophorone. In addition, the major U.S. manufacturers of isophorone have proposed to carry out mutagenicity and teratogenicity tests of isophorone. EPA believes that, together, these testing programs adequately respond to all of the ITC recommendations other than that for an epidemiology study. The Agency believes that requiring such a study is not warranted at this time. Consequently, the EPA is not, at this time, initiating rulemaking under section 4(a) to require health effects testing of isophorone. EPA seeks comments on its conclusions and on the adequacy of the proposed industry testing program.

DATE: Comments should be submitted on or before February 22, 1983.

ADDRESS: Written comments should bear the document control number OPTS-42029 and should be submitted in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C., 20460.

The administrative record supporting this action is 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, except legal 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 USA: (Operator 202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(a) (Pub. L. 94–467, 90 Stat. 2006; 15 U.S.C. 2601 *et seq.*) of the Toxic Substances Control Act (TSCA) authorizes the EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment. Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to the EPA a list of chemicals to be considered for promulgation of testing rules under section 4(a) of the Act.

The ITC placed isophorone on its priority testing list, as published in the **Federal Register** of June 1, 1979, (44 FR 31867). It recommended that isophorone be considered for testing for carciongenicity, mutagenicity, teratogenicity, and other chronic effects and that an epidemiology study be performed. The ITC recommended that isophorone be considered for carcinogenicity testing because of the large number of workers believed to be exposed to isophorone, its chemical structure, which suggests that isophorone has the potential to act as a direct alkylating agent, and because of the lack of carcinogenicity test data. The possible alkylating activity of isophorone and the lack of adequate test data were the reasons cited by the ITC in recommending mutagenicity testing. The ITC recommended that isophorone be considered for teratogenicity testing because no information was available on potential teratogenic effects. The ITC recommended that chronic effects testing be performed on isophorone because of its high exposure potential and the lack of information on its chronic toxicity. Finally, the ITC recommended that an epidemiology study be conducted due to the lack of information on chronic effects in humans from occupational exposure to low levels of isophorone. This notice provides EPA's response to the ITC's designation of isophorone for testing, as required by TSCA section 4(e).

II. Assessment of Exposure and Health Effects

Isophorone is an alpha, beta-unsaturated ketone with relatively low volatility. Its vapor pressure is 0.38 mm Hg at 20°C (Ref. 5). Its molecular formula is $C_9H_{14}O$.

The known chemical and physical data on isophorone include water solubility of 12,000 mg/l at 20°C (Ref. 5), an estimated octanol/water partition coefficient of 2.26 (Ref. 9), vapor density of 4.77 (Ref. 10) and a boiling point of 213–214°C (Ref. 11).

Isophorone is used chiefly as a solvent in the formulation of lacquers, and other surface coatings (Ref. 1). It is used in solvent mixtures for finishes, for polyvinyl and nitrocellulose resins, pesticides, and stoving lacquers (Ref. 4). Isophorone is an excellent solvent for many oils, fats, gums, and resins, and because of its chemical structure it is also used as a chemical intermediate for alcohols, and for synthesis of 3,5-dimethyl-aniline (Refs. 4, 11–13).

It is estimated that isophorone production is 20–30 million pounds per year and is decreasing because of its replacement, in some uses, with less costly compounds. Domestic sales account for 22–27 million pounds per year; exports, for 4–9 million pounds per year (Ref. 1). An estimated one million pounds were imported from the United Kingdom in 1981 (Ref. 2).

The National Institute for Occupational Safety and Health (NIOSH) estimated that 1,507,000 workers are potentially exposed to isophorone (Ref. 6). The CMA Ketones Panel believes NIOSH greatly overestimated exposure and that a more accurate estimate of exposure is 15,000–45,000 workers (Ref. 1). This estimate is still considered by EPA to indicate that a substantial number of workers may be exposed to isophorone. A recent study of worker exposure in a screen printing plant showed that workers were exposed to isophorone vapors in eight-hour time weighted average concentrations up to 23 parts per million (ppm) (Ref. 19). This is nearly five times the threshold limit value (TLV) for workplace exposure of five ppm (Ref. 17). NIOSH has recommended that this limit be reduced to four ppm as a result of a report that fatigue followed worker exposure to isophorone at levels of 5–8 ppm (Ref. 14). There does not appear to be any significant consumer exposure to isophorone covered by TSCA; however, isophorone may be present as an impurity in the drug clofibrate used to treat hyperlipidemia in humans and in some pesticides and plant growth retardants (Ref. 16).

Isophorone has been found in drinking water in Cincinnati, Ohio, at a level of 0.02 parts per billion (ppb) (Ref. 7), and in New Orleans, Louisiana, at 1.5–2 ppb (Ref. 24). It was also found at trace levels (less than 0.01 ppb) in water samples from the Delaware River (Ref. 23), and in wastewater from tire manufacturing, latex processing and chemical plants (Ref. 8).

In light of existing toxicity data on isophorone, the Agency does not expect isophorone to pose a significant health hazard at such low levels to the populations utilizing the drinking water supplies, nor accumulate in levels which result in significant environmental contamination.

Human case reports and studies indicate that isophorone is an eye and nose irritant (Ref. 15). Studies in animals exposed by inhalation, ocular and dermal routes also demonstrate that isophorone is an irritant. The oral LD_{50} for isophorone is reported to be 2,150 to 2,370 mg/kg in rats and 2,000 mg/kg in mice (Ref. 18).

Rats that died from inhalation exposure (1,800 ppm for 4 hours) exhibited the following gross pathologic changes: petechia and massive hemorrage of the lungs, congestion of stomach and liver, excess peritoneal fluid, a pale brownish color of the kidneys and orange-tinted spleens (Ref. 3).

No chronic or subchronic studies were found in the literature; however, the National Cancer Institute is currently performing a 2-year chronic bioassay for isophorone. The results are expected to be available by January, 1983. The range-finding subchronic study in Fisher 344 rats and B6C3Fl mice showed no gross pathology and no histopathologic lesions related to compound administration. Dosing was oral gavage at 62.5, 125, 250, 500 and 1,000 mg/kg/day for 90 days (Ref. 21).

The National Toxicology Program of the National Institutes of Health tested isophorone in the Ames assay. Four strains of bacteria were used with and without activation. All results were negative (Ref. 22).

EPA is aware of no data from teratogenicity testing of isophorone and of no epidemiology studies of persons exposed to isophorone.

III. Proposed Testing

The Ketones Program Panel and the Agency began discussion in 1981 regarding testing needs for isophorone. The Panel has submitted protocols for mutagenicity and teratology testing of isophorone (Ref. 20).

The Panel has proposed the following mutagenicity studies: a mouse lymphoma mutagenicity assay, an unscheduled DNA synthesis test, and a micronucleus test. The results of the mouse lymphoma and unscheduled DNA synthesis tests will permit an assessment of the potential of isphorone to cause gene mutations. The mouse lymphoma test will permit the evaluation of the mutagenic potential of isophorone by measuring the ability of isophorone to cause mutation at the thymidine kinase locus in the L5178 TK+/− mouse lymphoma cell line. The unscheduled DNA synthesis test will measure the ability of isophorone to induce genetic damage which will trigger DNA repair. The micronucleus tests, an *in vivo* cytogenetics test, is a test for the potential to induce chromosomal damage either through chromosomal breakage or interference with normal mitotic cell division.

The Panel also has proposed an inhalation teratology study for isophorone in two species (rat and mouse) using three dose levels, including a negative control. Standard experimental design procedures for teratology testing are proposed, including exposure during days 6–15 of the gestation period.

The Panel has agreed to adhere to the FDA Good Laboratory Practice Standards (43 FR 59986, Dec. 22, 1978), and has agreed to furnish EPA with names and addresses of laboratories conducting the tests described above as soon as they are available. The specific tests being performed by each laboratory shall be indicated.

The Panel has also agreed to permit laboratory audits/inspections at the request of authorized representatives of the EPA in accordance with the authority and procedures outlined in TSCA section 11. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to the FDA Good Laboratory Practice Standards cited above.

Finally, the Panel has agreed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of a study will be retained as specified in the FDA Good Laboratory Practice Standards cited above and made available during an inspection or submitted to EPA if required by EPA or its authorized representative.

The Agency plans to publish quarterly in the **Federal Register** a notice of the receipt of any test data submitted under this agreement. Subject to TSCA section 14, the notice will provide information similar to that described in TSCA section 4(d). Except as otherwise provided in TSCA section 14, such data will be made available by the EPA for examination by any person. The Panel understands that TSCA section 14(b)(1)(A) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA.

Finally, the Panel understands that failure to conduct the testing according to the test protocols agreed upon by the Panel and EPA or failure to follow Good Laboratory Practices may invalidate the tests. In such cases, a data gap may still exist, and the Agency may decide to promulgate a test rule or otherwise require further testing.

The Panel agreed to begin the teratology study within three months of publication of the final notice with final report submission within 12 months of study initiation. Mutagenicity testing would begin approximately one month after publication of the final notice with completion expected six months after initiation. Should the Panel fail to make a good faith effort to adhere to its testing schedule outlined above, EPA will initiate rulemaking to require testing.

IV. Decision Not To Initiate Rulemaking

When combined with the work ongoing at National Cancer Institute, EPA believes that the industry's proposed testing program will provide an adequate basis to evaluate the effects of concern to the ITC. Should information developed through this testing program or otherwise reveal a need for additional testing that industry is unwilling to perform, the Agency reserves the right to proceed with rulemaking under section 4(a). EPA's specific responses to the various recommendations of the ITC are set forth below.

1. *Carcinogenicity and Chronic Effects.* The National Cancer Institute (NCI) is currently performing a chronic bioassay that includes carcinogenicity testing for isophorone. The NCI chronic bioassay on isophorone is expected to provide sufficient data to reasonably predict or determine the potential of isophorone with respect to oncogenicity and chronic endpoints. In addition, the range-finding subchronic study showed no gross pathology or histopathologic lesions related to compound administration.

NCI is administering isophorone by oral gavage in its bioassays; however, the major route of human exposure is inhalation. EPA has considered the desirability of performing some basic toxicokinetic studies (compound uptake, distribution and elimination) using the route of administration used in testing (gavage) and the route of administration which mimics human exposure (inhalation) to provide a better basis for evaluating the NCI test data. EPA will consider toxicokinetics studies if they appear warranted based on the outcome of the NCI studies. The need for such data might be more acute if the NCI study shows significant effects. The Agency is requesting comments on the criteria under which toxicokinetic studies should be required.

2. *Mutagenicity.* The Panel has submitted protocols for three mutagenicity tests: a mouse lymphoma mutagenicity assay; an unscheduled DNA synthesis test; and a micronucleus test. Although the micronucleus test protocol is inconsistent with the TSCA and OECD test guidelines, EPA is working with the Panel to resolve these differences. Assuming successful resolution of this issue and no unresolvable issues are identified by commentors, the Agency will accept these protocols as satisfying the basic gene mutation and chromosomal aberration testing needs; therefore, additional mutagenicity testing is not being required at this time. If these studies indicate genotoxic potential, EPA will pursue further mutagenicity testing, either through negotiations or by rule.

3. *Teratology.* The Panel has submitted a protocol for an inhalation teratology study on isophorone which is expected to provide adequate data for determining teratogenic potential. Thus, there is no need to initiate rulemaking at this time to require teratogenicity studies.

4. *Epidemiology.* Because there are no documentable health hazards reported for isophorone, the Agency does not believe that it should require epidemiologic studies at this time. Should the NCI or CMA testing programs for isophorone identify such a hazard, EPA will reconsider the need for requiring an epidemiology study.

V. References

(1) Report of the Chemical Manufacturers Association, Ketones Program Panel. October 21, 1981. Exhibit 2.

(2) BOC-Imports. 1979–1982. Bureau of Census. As referenced in the draft Level I Economic Evaluation: Isophorone, by Mathtech, Inc. under Contract 68–01–6287 for EPA. p. 22.

(3) Smyth HF, Seaton J. 1940. Acute response of guinea pigs and rats to repeated inhalation of vapors of mesityl oxide and isophorone. J. Ind. Hyg. Toxicol. 22:477–483.

(4) Hawley CG, editor. 1977. Condensed chemical dictionary, 9th ed. New York, NY: Van Nostrand Reinhold Co., p. 482.
(5) Verschueren K, editor. 1977. Handbook of environmental data on organic chemicals, New York, NY: Van Nostrand Reinhold Co., p. 404.
(6) NIOSH. August 1980. National Occupational Hazard Survey (NOHS)—Quarterly Hazard Summary Report. Cincinnati, p. 88.
(7) USEPA. 1975. Preliminary assessment of suspected carcinogens in drinking water. Rept. to Congress. Washington, D.C. as cited in Ambient Water Quality Criteria for Isophorone. EPA 440/5–80–056. October 1980. p. C–1.
(8) Jungclaus GA, et al. 1976. Identification of trace organic compounds in tire manufacturing plant waste waters. Anal. Chem. 48:1894. As cited in Ambient Water Quality Criteria for Isophorone. EPA 440/5–80–056. October 1980. p. C–3.
(9) Hansch C, Leo A. 1979. Substituent constants for correlation analysis in chemistry and biology. New York, NY: John Wiley and Sons.
(10) Sax NI, editor. 1975. Dangerous properties of industrial materials. 4th ed. New York, NY: Van Nostrand Reinhold Co.
(11) Rowe VK, Wolfe MA. 1963. Ketones. In: Patty FA, editor. Jour. Ind. Hyg. Toxicol., New York, NY: Interscience Publishers, pp. 1719–1723.
(12) Browning, E. 1965. Toxicity and metabolism of industrial solvents. New York, NY: Elsevier Publishing Co., pp. 455–459.
(13) Morel, C, Cavineaux A, Protois JC. 1975. Toxicological Sheets. 118. Isophorone. Can. Notes Document. 81:5 39–541.
(14) NIOSH. 1978. Registry of Toxic Effects of Chemical Substances.
(15) Silverman L, Schulte HF, First MW. 1946. Further studies on sensory response to certain industrial solvent vapors. J. Ind. Hyg. Toxicol. 28:262–266.
(16) Johansson E, Ryhage R. 1976. Gas chromatographic-mass spectrometric identification and determination of residual by-products in clofibrate preparations.
(17) American Conference of Governmental Industrial Hygienists. 1980. Threshold Limit Values for Chemical Substances in Workroom Air Adopted by ACGIH for 1980. ISBN: 0–936712–29–5.
(18) Bukhalovskii AA, Shugaev BB. 1976. Toxicity and hygienic standardization of isophorone, dihydroisophorone, and dimethylphenyl carbinol. Prom. St. Sint. Kauch. 76(2):4–5.
(19) Samini B. 1982. Exposure to isophorone and other organic solvents in a silk screen printing plant. American Industrial Hygiene Association Journal. Jan. 1, 1982; 43:43–48.
(20) Chemical Manufacturers Association. 1982. Ketones Program Panel. Proposed voluntary test program on isophornoe. Dated October 8, 1982.
(21) National Toxicology Program. 1979. Prechronic test review. Contract No. 600259. Papanicalou Cancer Research Center, Miami, Florida.
(22) National Toxicology Program. 1982. Mutagenesis testing results. *NTP Technical Bulletin, Issue 6, p. 6.*
(23) Sheldon LS, R.A. Hites. 1978. Organic compounds in Delaware River. Environ. Sci. Technol. 12:1188.
(24) Shackelford WM, L. H. Keith. 1976. Frequency of organic compounds identified in water. U.S. EPA. 600/4–76–062. Athens, Georgia, p. 626.

VI. Public Record

The EPA has established a public record for this testing decision (Docket Number OPTS–42029). This record includes:

(1) **Federal Register** notice containing the designation of isophorone to the priority list and all comments on isophorone received in response to that notice.

(2) Communications with industry.

(3) Letters.

(4) Contact reports of telephone conversations.

(5) Meeting summaries of Agency-industry and Agency-public meetings.

(6) Testing proposal.

(7) Published and unpublished data.

(8) **Federal Register** notice requesting comment on the negotiated testing proposal and all comments received in response to that notice.

This record, containing the basic information considered by the Agency in developing the decision, is available for inspection in the OPTS Reading Room 8:00 a.m. to 4:00 p.m., Monday through Friday (except legal holidays) in Room E–107, 401 M Street, SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003 (15 U.S.C. 2061))

Dated: December 20, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 83-327 Filed 1-3-83; 3:55 pm]
BILLING CODE 6560-50-M

[OPTS–59104C; BH–FRL 2279–3]

Reaction Product of Alkyl Isocyanate With 3-(Trimethoxysilyl)-1-Propanethiol; Approval of Test Marketing Exemption; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects the identification for test marketing exemption approval for the new chemical reaction product of alkyl isocyanate with 3-(trimethoxysilyl)-1-propanethiol.

FOR FURTHER INFORMATION CONTACT: Anna Coutlakis, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–206, 401 M St. SW., Washington, D.C. 20460, (202–382–3742).

SUPPLEMENTARY INFORMATION: In FR Doc. 82–32707, published in the **Federal Register** of November 30, 1982 (47 FR 53945), EPA issued a notice approving the test marketing of the new chemical reaction product of alkyl isocyanate with 3-(trimethoxysilyl)-1-propanethiol under section 5 of the Toxic Substances Control Act.

The TME identification number "TME 82–53", appearing at page 53945, third column, line fourteen, is corrected to read "TME 83–2".

Dated: December 28, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83-325 Filed 1-5-83; 8:45 am]
BILLING CODE 6560-50-M

[OLEC–FRL 2271–7]

Consent to the Entry of Consent Decrees and Final Findings of Administrator With Regard to Steel Industry Compliance Extension Act of 1981: United States Steel Corp.

AGENCY: Environmental Protection Agency.

ACTION: Notice of consent to the entry of new or amended consent decrees, and notice of final findings.

SUMMARY: The Administrator consents to the entry of new or amended consent decrees permitting certain extensions of compliance to the United States Steel Corporation under the Steel Industry Compliance Extension Act of 1981. The Administrator also makes final the findings required by the Act.

DATE: Effective December 29, 1982.

FOR FURTHER INFORMATION CONTACT: William Repsher, Attorney, Office of Enforcement Counsel (EN–329), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–2868.

Documents submitted by United States Steel Corporation with its application under the Steel Industry Compliance Extension Act and information otherwise available to the Administrator in connection with that application may be inspected at the following location between 9:00 a.m. and 4:00 p.m. weekdays: U.S. Environmental Protection Agency, Central Docket Section: West Tower, 401 M Street, SW., Washington, D.C. 20460, Docket No. EN–81–16B.

SUPPLEMENTARY INFORMATION: On August 10, 1982 (47 FR 35855), the Administrator announced findings

preliminary to the lodging of new or amended consent decrees under the Steel Industry Compliance Extension Act of 1981 ("SICEA") to extend compliance deadlines for certain facilities of the United States Steel Corporation. Subsequent to that announcement, the United States of America and United States Steel Corporation have negotiated new or amended consent decrees (hereafter, the "decrees") covering seven of the Company's major steel—producing facilities. These decrees comply with the requirements of the SICEA—in particular, with the requirements of Section 113(e)(1)(C). The first purpose of this notice is to announce that the Administrator consents to the entry of these decrees in the appropriate federal district courts.

In her announcement of August 10, 1982, the Administrator made eight findings required by the SICEA. During the course of negotiating the referenced consent decrees, United States Steel Corporation modified the list of sources for which it desired extended compliance schedules, as well as the list of offseting modernization projects. In addition, the parties reached agreement on the phased program of compliance, and new information was acquired by the Administrator regarding what controls were needed at the various sources and what those controls would cost. Accordingly, final findings reflecting appropriate modifications to the preliminary findings of Agust 10, 1982 need to be made.

The second purpose of this notice is to announce these final findings. The final findings consist of the findings of August 10, 1982, which findings are incorporated by reference herein, except as expressly modified below. The discussion which follows indicates the respects in which the final findings are different from the preliminary findings.

Manner in Which the Preliminary Findings Are Revised

A. Stretched Sources

During the course of negotiations, the company decided that it no longer desired to stretch the schedules for certain of the sources for which stretchout was originally sought. For example, the company recently took steps to reduce emissions at the Fairless Sinter Plant. The reductions have been sufficient to make it feasible for the company to pursue a "bubble" for the source. A "bubble" has been applied for and approved by the Pennsylvania Environmental Quality Board. The sinter lines have been shut down for business reasons and, under the amended decree, may not be reactivated unless controls are in place adequate to achieve and demonstrate compliance with the emission limitations specified in the SIP (whether or not the bubble is approved by EPA).

Another example is the Duquesne No. 6 Blast Furnace. During the course of negotiations, the company continued experimentation at that source with a new method for controlling blast furnace emissions. The new approach has been successful enough that the company has committed to achieve and demonstrate compliance with applicable emission limits by December 31, 1982.

During the course of negotiations, the company requested to add certain sources to the stretchout list. Finding Number 1 has been revised to reflect these decisions as well.

B. Modernization Projects

At the conclusion of the negotiations process, the dollar amount of obligations to be deferred was finally determined and the company selected the specific offsetting modernization projects to which it was willing to commit under the Stretchout Act. Finding Number 2 has been revised to specifically identify and briefly describe these projects.

C. Control Programs and Costs

In the August 10, 1982 findings, EPA estimated that United States Steel needed to spend an estimated $252.3 million on controls in order to bring all of the sources at its iron and steel-producing operations into compliance with the Clean Air Act. During the course of negotiations, the company presented information leading EPA to conclude the additional capital expenditures would not necessarily need to be incurred at certain sources. Finding Number 3 has been revised to delete such sources. Conversely, a number of sources have been added to the list where information obtained during the course of negotiations dictated.

With respect to a number of sources, the dollar amounts of capital expenditures estimated as remaining to be spent on control programs have been revised. The new figures are based on EPA's review of estimates provided by the Company's Engineering Division. Differences between the new figures and those set out in the August 10, 1982 findings are attributable to one or more of the following reasons:

—A different type of control program than originally envisioned by EPA has been determined to be adequate;

—The costs of a given control program have been determined to be less than those originally believed necessary;

—Some projects underway at the time of the August 10, 1982 findings were substantially more complete than the information then available to EPA indicated;

—Certain of the pollution control program costs identified in the August 10, 1982 findings are operating and maintenance expenses.

It should be noted that a number of the sources in Table II (where the costs are presented) are listed as "Temporary Shutdown" sources. Under the negotiated stretchout agreements, these sources will have to install controls only by such time as they are reactivated, whenever that may be. A number of sources appear in both portions of Table II. For such sources, the dollar figure specified in the first portion of the table represents the amount spent by the Company between August 10, 1982 and December 31, 1982; listing of the source in temporary shutdown reflects the fact that further controls and expenditures will be required to fully achieve compliance at the source.

D. Phased Program of Compliance

Finding Number 4, which deals with the "Phased Program of Compliance" defined in Section 113(e)(2) and required by Section 113(e)(1)(C) of the Act, has been amended in two respects. First, the dollar amounts have been revised to reflect the amounts actually to be spent on controls pursuant to the agreements reached in the negotiations. Second, the time frame of the phased program of compliance has been modified to include the period from the date of the preliminary findings to December 31, 1982. Given that the Company's expenditures on pollution controls during that period played an integral role in resolving the entire complex of issues between EPA and the Company at the time of the preliminary findings, inclusion of that period is appropriate.

Inclusion of this period, however, results in an uneven number of years covered by the stretchout decrees. Section 113(e)(2) requires that spending on pollution controls be such that by the end of the second and each succeeding year, cumulative expenditures will be at least equal to the amounts which would have been spent if expenditures were to be made in equal yearly increments. This mandate was implemented by determining the ratio of the number of days in the first two years of the program—August 10, 1982 through August 10, 1984—to the total number of days from August 10, 1982 to December 31, 1985. This ratio comes to

approximately 60%. The agreed-upon phased program requires that at least this proportion of the total dollars to be expended on controls be expended by August 10, 1984.

Under the agreed-upon phased program, the period between August 10, 1984 and December 31, 1985 was divided into equal increments, with cumulative spending phased proportionately. Thus, the phased program requires that 89% of the expenditures occur by April 20, 1985, with the balance to occur by December 31, 1985.

E. Integrated Expenditure Schedule

Finding Number 5, which integrates the expenditure and investment schedules for pollution control projects and modernization projects, has been revised to conform to the revisions in Findings 2, 3 and 4.

F. Financial Capability Finding

Finding Number 6, regarding the Company's financial ability to comply with applicable requirements, is revised to reflect the revisions to Findings 3, 4 and 5.

Final Findings

1. Finding number (1) is amended by deleting the first paragraph thereof, including the table, and substituting therefor the following:

(1) I find that the following compliance obligations (capital expenditures necessary to achieve compliance with SIP or RACT, as appropriate) may be extended:

[Dollars in millions]

Project	Cost
A. Fairless Works	
(i) Blast Furnace Casthouses (2)	$0.4
(ii) Coke Quenching	.15
B. Lorain Works	
(i) Coke Quenching	.4
(ii) Blast Furnace Casthouses (2)	.3
(iii) Basic Oxygen Process Shop	1.6
C. Gary Works	
(i) Sinter Plant No. 3	.15
(ii) O-BOP Shop	6.3
(iii) Blast Furnace Casthouses (4)	.93
D. Fairfield Works	
(i) Blast Furnace Casthouse	.15
E. South Works	
(i) AOD Electric Furnace	1.3
Total	13.68

2. Finding number 2 is amended by striking the language thereof in its entirety, and substituting the following therefor:

(2) I find, assuming continuation of the present business and financial conditions affecting the iron and steel operations of United States Steel Corporation, the granting of extended compliance schedules for air pollution control projects costing a total of Thirteen Million six hundred eighty thousand dollars ($13,680,000) is necessary to make available for investment by July 16, 1983 the corresponding amount of $13,680,000, to recommence and complete the modernization projects set forth below by the dates specified below, which projects will improve efficiency and productivity at the iron and steel operations of United States Steel Corporation and which projects were planned and authorized prior to November 24, 1982 [1] but were discontinued due to the lack of funds, and which projects will be implemented at Communities which already contain iron- and steel-producing facilities.

South Works

$2.1Mn Project Completion: May 31, 1984 Conversion of rolling mill equipment from 25 to 60 cycle power:

The Company shall convert the rolling mill equipment at South Works from 25 cycle to 60 cycle power to replace the obsolete and ineffective steam-driven turbogenerators which currently produce 25 cycle power. This conversion will permit the plant to take advantage of state-of-the-art electric controls and equipment that are not available for 25 cycle power.

Lorain Works

$9.86Mn Project Completion: May 30, 1984 Two additional billet grinders for Billet Conditioning Facility:

The company shall install two additional high capacity, fixed-head bar billet grinders at the Billet Conditioning Facility. The project includes a new building, billet handling equipment and air quality control equipment. The facilities will provide the necessary capability for quality bar shipments.

Homestead Works

$1.72 Mn Project Completion: June 30, 1984 Improvements to No. 4 Shear Unit:

The company shall install at its Homestead No. 4 Shear Unit a rotary shear for plates with entry and exit tables, scrap chopper, and plate positioner. The installation of this rotary shear, and the relocating and rearranging of the existing plate leveler, and shear, unpiler, marking table, etc., will permit the processing of more plates per turn with improved performance in meeting plate dimension tolerances.

3. Finding Number 3 is amended by striking the language thereof in its entirety, and substituting the following therefor:

(3) I find that in order to achieve compliance with applicable state implementation plans (or RACT, where applicable) at all sources in its iron- and steel-producing operations, the company will be required to have made approximately the following capital expenditures for sources to be controlled on fixed schedules after August 10, 1982, and either by December 31, 1982, or between January 1, 1983 and December 31, 1985:

[Dollars in millions]

Project	Cost
A. Fairfield	
Blast Furnace No. 7 Casthouse	$0.15
B. Geneva	
Open Hearth Tapping	.2
Blast Furnaces, Sinter Plant, Coke Quenching	1.1
Coke Batteries Nos. 1, 2, 3, 4 (Pushing)	.6
C. Lorain	
Coke Batteries G, H, I, J, (Push)	1.8
Coke Quenching	.4
Blast Furnaces Nos. 1, 4	.3
BOP Shop (Fugitives)	5.0
D. Fairless	
Coke Batteries Nos. 1, 2 (Pushing)	1.3
Blast Furnaces Nos. 1, 2	.4
Coke Quenching	.15
E. Edgar Thompson	
BOF Shop	.4
Blast Furnace No. 3	.3
F. Saxonburg	
Sinter Lines Nos. 2 and 3	.7
G. Homestead	
Open Hearth	.1
H. South Works	
Electric Arc Vessels 411 and 412	.1
AOD Electric Arc (Fugitives)	1.3
I. Gary Works	
Coke Batteries Nos. 1, 2, 15 (Pushing)	.4
Coke Batteries (Topside)	3.5
Sinter Plant No. 3 (Windbox)	2.15
Blast Furnaces Nos. 4, 6, 8, 13	.93
BOF No. 1 Shop (Secondary and Hot Metal Transfer)	.29
Q-BOP (Secondary)	8.3
Q-BOP (Hot Metal Transfer)	1.5
J. Duquesne	
Blast Furnace No. 6 Casthouse	.1
Total	30.22

Under the negotiated decrees, the sources listed below are to be treated as "Temporarily Shutdown" sources. A "Temporary Shutdown" source, as that term is used in the decrees, refers to a source which has, or will have by December 31, 1982, ceased operations, and refers to one on which the Company has committed to install controls by the time of recommencement of operation, whenever that may occur. For these sources, the need to expend the monies required to achieve compliance is contingent upon resumption of operation.

A. Fairfield:
- Coke Battery No. 2 (Pushing, Larry Car Purge)
- Coke Batteries Nos. 5 and No. 6 (Pushing)
- Blast Furnace No. 5 Casthouse
- Blast Furnace No. 6 Casthouse
- Sinter Line No. 4 (Windbox)

[1] The Company and the Government reached an agreement in principle in the stretchout negotiations on November 19, 1982.

B. Lorain:
Coke Battery "J"
Blast Furnace No. 2 Casthouse
C. Fairless:
Electric Arc Furnace Secondary
Open Hearth Furnace No. 5 (Tapping)
Sinter Plant
D. Edgar Thompson:
Blast Furnaces Nos. 1, 2, 3
D. Saxonburg:
Sinter Lines Nos. 2 and 3
F. Homestead:
Blast Furnace No. 3 Casthouse
Blast Furnace No. 4 Casthouse
Open Hearth Furnaces Nos. 67, 68, 69, 72, 73, 74, 75 (Tapping)
G. South Works:
Blast Furnaces Nos. 8, 11, 12 Casthouses
BOF (Tapping Suppression)
Sinter Plant (Windbox Stack)
H. Gary Works:
Coke Battery #2 (Topside)
Sinter Plant No. 2 Windbox/Discharge
Blast Furnaces No. 3, 5, 7, 9, 10, 11, 12 Casthouses
I. National-Duquesne Works:
Blast Furnace No. 1 Casthouse

4. Finding Number 4 is amended by striking the language thereof in its entirety, and substituting therefor the following:

(4) I find that a "phased program of compliance" (as defined in Section 113(e)(2) of the Act) requires the Company to make pollution control capital expenditures on the following schedule:
At least $16.54M by December 31, 1982.
At least $18.13M by August 10, 1984.
At least $24.17M by April 20, 1985.
At least $30.22M by December 31, 1985.

5. Finding Number 5 is amended by striking the language thereof in its entirety and substituting therefor the following:

(5) I find that an integration of the required schedules for pollution control expenditures and for modernization investments and expenditures results in the following required schedule of capital expenditures:
At least $16.54M by December 31 1982, for pollution control projects.
At least $13.68M in "investments" in projects for improving efficiency and productivity by July 16, 1983.
At least a total of $18.13M for pollution control projects by August 10, 1984.
At least a total of $24.17M for pollution control projects by April 20, 1985.
At least a total of $30.22M for pollution control projects by December 31, 1985.[3]

[3] Expenditures for controls to be installed subsequent to December 31, 1982 but prior to recommencement of operation on sources which are temporarily shut down are not included.

6. Finding Number 6 is amended by deleting the language thereof in its entirety, and substituting therefor the following:

(6) I find that the company will have sufficient funds to comply with the capital expenditure requirements set forth in Finding 5, to comply with the capital expenditure requirements respecting the Temporary Shutdown sources listed in Finding 3, and to comply with all other requirements of the decrees listed at the conclusion to these findings.

7. Finding Number 8 is amended by striking the language thereof in its entirety, and substituting therefore the following:

(8) I find that the extensions of compliance to which I am consenting will not result in degradation of air quality during the term of the extensions.

Conclusion

Based on the foregoing findings, I have decided to exercise my statutory discretion to consent to the entry of the following consent decrees or consent decree amendments, establishing schedules for compliance or extending compliance deadlines for certain sources beyond December 31, 1982:

Superceding Consent Decree—Alabama Air Pollution Control Commission, and the State of Alabama, ex rel. William J. Baxley, Attorney General, and Jefferson County Board of Health, and United States of America, and Administrator of the United States Environmental Protection Agency v. United States Steel Corporation, U.S. District Court for the Northern District of Alabama, Southern Division, C.A. No. 77-H-1630-S

Consent Decree, United States of America, Citizens for a Better Environment, and Save the Dunes Council vs. United States Steel Corporation, U.S. District Court for the Northern District of Indiana, Hammond Division, Civ. No. H 78-494.

Modification to Consent Decree, United States of America, and City of Bordentown, State of New Jersey, and Commonwealth of Pennsylvania, Department of Environmental Resources v. United States Steel Corporation, C.A. No. 79-3645; United States of America, and Commonwealth of Pennsylvania, Department of Environmental Resources v. United States Steel Corporation, C.A. No. 80-0743, U.S. District Court for the Eastern District of Pennsylvania.

Fourth Modification to Consent Decree, United States of America, and Commonwealth of Pennsylvania Department of Environmental Resources, and County of Allegheny and United Steelworkers of America Local Union No. 1397, and Group Against Smog and Pollution v. United States Steel Corporation, C.A. No. 79-709, U.S. District Court for the Western District of Pennsylvania.

Third Amendment to Consent Decree, United States of America v. United States Steel Corporation, Case No. C-79-225, U.S. District Court for the Northern District of Ohio, Eastern Division.

Superceding Consent Decree, United States of America and People of the State of Illinois v. United States Steel Corporation, U.S. District Court for the Northern District of Illinois, Eastern Division, C.A. Nos. 76 C 4545, 79 C 1118, 82 C ——.

Consent Decree, United States of America v. United States Steel Corporation, U.S. District Court for the Southern District of Texas, Houston Division, Civ. No. ——.

I have determined that each of the foregoing decrees or decree amendments meets the requirements of Section 113(e)(1)(C) of the Clean Air Act.

These decrees have been lodged with the appropriate district courts. Interested parties may offer comments under the notice of lodging which has been published by the Department of Justice pursuant to 28 CFR 50.7.

Dated: December 29, 1982.

John W. Hernandez,
Acting Administrator.

[FR Doc. 83-182 Filed 1-5-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-673-DR]

Arkansas; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas (FEMA-673-DR), dated December 13, 1982, and related determinations.

DATED: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

NOTICE: The notice of a major disaster for the State of Arkansas dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982:

For Individual Assistance: The Counties of Clay, Desha, Montgomery and Monroe.

John E. Dickey,

Acting Associate Director, State and Local Program and Support, Federal Emergency Management Agency.

[FR Doc. 83-306 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-673-DR]

Arkansas; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas (FEMA-673-DR), dated December 13, 1982, and related determinations.

DATED: December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

NOTICE: The notice of a major disaster for the State of Arkansas dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982:

For Public Assistance:

The Counties of Fulton, Howard, Marion, Polk, Sevier and Yell.
The City of East Camden in Ouachita County.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718-02.)

John E. Dickey,

Acting Associate Director, State and Local Program and Support, Federal Emergency Management Agency.

[FR Doc. 83-309 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL TRADE COMMISSION

Hart-Scott-Rodino Antitrust Improvement Act; Notification and Report Form; Information Collection Requirements

AGENCY: Federal Trade Commission.

ACTION: Notice of Application to OMB Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) for review and approval of an extension of an information collection requirement and form.

SUMMARY: The Commission is seeking OMB clearance for an extension for one year of the information collection requests made pursuant to provisions of the Hart-Scott-Rodino Antitrust Improvement Act, Title II (15 U.S.C. 18a), the approval for which was scheduled to expire on December 31, 1982.

Section 7A of the Clayton Act provides that certain persons proposing to make acquisitions or engage in mergers shall file with the Federal Trade Commission and the Attorney General a premerger notification report in a form prescribed by the Federal Trade Commission, with the concurrence of the Assistant Attorney General in charge of the Antitrust Division. The Commission has made and is continuing to make substantial efforts to reduce the reporting burden connected with the filing of such reports. In this regard, the Federal Trade Commission is applying for a limited extension for the use of its existing report form. The extension will provide additional time necessary for the Commission to complete its review. Approval is also sought for a number of non-substantive modifications in the instructions and the form which are being made to clarify and simplify the reporting requirements.

DATE: Comments on this clearance applications must be submitted on or before February 7, 1983.

ADDRESS: Send comments to Ms. Nell Minow, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503. Copies of the application may be obtained from Public Reference Branch, Room 103, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: John M. Sipple, Jr., Attorney, Bureau of Competition, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3404.

Michael A. Baggage

Acting Secretary.

[FR Doc. 83-381 Filed 1-5-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-82-1194]

Submission of Proposed Information Collections To OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information ; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what numbers of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OBM Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are are describer as follows:

Notice of Submission of Proposed Information Collection To OMB

PROPOSAL: Relocation Payment Claim Forms.

OFFICE: Community Development and Planning.

FORM NUMBER: HUD–4000, 4001, 4002, 4003, 4004 and 4004A.

FREQUENCY OF SUBMISSION: On Occasion.

AFFECTED PUBLIC: Individuals or Households.

ESTIMATED BURDEN HOURS: 15,000.

STATUS: Extension.

CONTACT: Mel Geffner, HUD, (202) 755–6336, Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 17, 1982.

PROPOSAL: Urban Renewal Program.

OFFICE: Community Planning and Development.

FORM NUMBER: HUD-693, 6000, 6004, 6004A, 6200, 6250 and 6251.

FREQUENCY OF SUBMISSION: On Occasion.

AFFECTED PUBLIC: State or Local Governments.

ESTIMATED BURDEN HOURS: 972.

STATUS: Extension.

CONTACT: Thomas Terrel, HUD, (202) 755–6935, Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 17, 1982.

PROPOSAL: Financial Assistance Program of the Solar Energy and Energy Conservation Bank.

OFFICE: Solar Energy and Energy Conservation Bank.

FORM NUMBER: None.

FREQUENCY OF SUBMISSION: Semiannually.

AFFECTED PUBLIC: Individuals or Households and Businesses or Other Institutions (except farms).

ESTIMATED BURDEN HOURS: 3,800.

STATUS: New.

CONTACT: Richard Francis, HUD, (202) 755–7166, Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 17, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-267 Filed 1-5-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-82-1195]

Submission of Proposed Information Collection To OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

PROPOSAL: Request for Termination of Multifamily Mortgage Insurance.

OFFICE: Administration.

FORM NUMBER: HUD–9807

FREQUENCY OF SUBMISSION: On Occasion.

AFFECTED PUBLIC: Businesses or Other Institutions (except farms).

ESTIMATED BURDEN HOURS: 75.

STATUS: Extension.

CONTACT: Betty Belin, HUD, (202) 755–5747, Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535 (d).

Dated: October 27, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-268 Filed 1-5-83; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-82-1192]

Real Estate Settlement Procedures Act—Text Change in the Special Information Booklet

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

ACTION: Notice.

SUMMARY: This Notice sets forth a change in the text of the Special Information Booklet, required by the Real Estate Settlement Procedures Act of 1974 (RESPA), dealing with the Truth in Lending Act.

FOR FURTHER INFORMATION CONTACT: John Coonts, Director, Single Family Development Division, Room 9270, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone number (202) 755–6270 [this is not a toll free number].

SUPPLEMENTARY INFORMATION: Notice is hereby given that the text of the Special Information Booklet required under RESPA, Section 5 (12 U.S.C. 2604), is being changed to reflect amendments to the Truth in Lending Act contained in the Truth in Lending Simplification and Reform Act of 1980 (Pub. L. 96–221) which went into effect October 1, 1982. The changes reflect that the disclosure statement required by the Truth in Lending Act must now be given a borrower in a home purchase

transaction at or within three days of receipt of a written loan application from the borrower. Other changes occasioned by the recent amendments are also discussed.

The text of the Special Information Booklet was originally published as a Notice in the Federal Register on June 10, 1976 at 41 FR 23620. References made below to organizational layout of the booklet are to that text. As of the effective date of this notice, the revised text below becomes the "currently prescribed" text for purposes of 24 CFR 3500.6. However, lenders may exhaust existing supplies of booklets before obtaining booklets with the revised language; provided, however, that all booklets distributed after July 1, 1983 must contain, as required in 24 CFR 3500.6, the revised language.

The Special Information Booklet required by the RESPA is amended by deleting the two paragraphs following the heading "Truth in Lending" which appears in Part I of the booklet, in the "Homebuyer's Rights" Section, after the "Escrow Closings" heading (and originally published at the top of 41 FR 23634), and substituting the following new text:

The lender is required, usually within three days of receiving your application, to give you or place in the mail to you a Truth in Lending statement that will disclose the "annual percentage rate" (APR). The APR reflects the cost of your mortgage loan as a yearly rate. This rate may be higher than the rate stated in your mortgage or deed of trust note because the APR includes, in addition to interest, loan discount (points), fees, and other credit costs. The Truth in Lending statement also discloses other useful information, such as the finance charge, schedule of payments, late payment charges, and whether or not additional charges will be assessed if you pay off the balance of your loan before it is due (prepayment penalty).

Some of the information that the lender is required to disclose may not be certain at the time the lender is required to give you the Truth in Lending statement. If so, the lender will indicate that the uncertain disclosures are estimates. Should the actual APR differ by more than a small amount from the lender's estimate, the lender must give you a corrected Truth in Lending statement no later than at settlement. However, if the estimated APR proves to be correct, the lender *need not* give you a new Truth in Lending statement, even if other disclosures have changed. For this reason, you may want to ask the lender shortly before settlement if all the Truth in Lending disclosures are still accurate.

(Sec. 5 and 19(a), the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604 and 2617(a)))

Dated: December 21, 1982.

Bernard Shriber,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-286 Filed 1-5-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Pyramid Lake Indian Irrigation Project, Nevada

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The purpose of public notice is to change the annual per acre assessment rates for the operation and maintenance of the irrigation facilities on the Pyramid Lake Indian Irrigation Project, to properly reflect the actual costs for labor, materials, equipment, and services. The change is from $20.00 to $29.00 per irrigable acre for non-Indian owned land and Indian owned land leased to non-Indians, and from $1.00 to $16.50 per irrigable acre for Indian owned land farmed and operated by Indians.

EFFECTIVE DATE: This notice will become effective on the date of publication of this document in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Robert L. Hunter, Superintendent, Western Nevada Agency, 5533 Mark Twain Avenue, Carson City, Nevada 89701, telephone number (702) 882-3411.

SUPPLEMENTARY INFORMATION: This notice is issued under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 209 DM 8 and redelegated by Deputy Assistant Secretary for Indian Affairs (Operations) to the Area Directors in 10 BIAM 3. The current operation and maintenance charges were established in 1978. The inflation rate on labor and materials has continued to increase each year until costs now exceed revenue from current charges.

Meetings were held with the Tribal Council and the Natural Resource Committee of the Tribe. The above charges were presented and comments were heard and evaluated. It was decided that the above charges have to be made in order that the operation and maintenance of the Pyramid Lake Indian Irrigation Project can be undertaken and water delivered to the water users.

The notice shall read as follows:

Pyramid Lake Indian Irrigation Project

Annual Operation and Maintenance Charges

Annual Per Acre Assessment—The annual assessment against land to which water can be delivered under the Pyramid Lake Indian Irrigation Project in Nevada for operation and maintenance of the Project, is hereby fixed at $29.00 per irrigable acre for non-Indian owned land and Indian owned land leased to non-Indians, and $16.50 per irrigable acre for Indian owned land farmed and operated by Indians.

Payment—The annual operation and maintenance assessment shall be due and payable on April 1 of each year and continued in effect thereafter until further notice. Water will not be delivered to the land until the assessment has been paid or arrangements have been made under 25 CFR Part 171.17 Operation and Maintenance Charges.

Dated: December 23, 1982.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-307 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-02-M

San Carlos Irrigation Project, Indian Works, Arizona

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The purpose of this public notice is to change the per acre assessment rate for the operation and maintenance of the irrigation facilities of the Indian Works of the San Carlos Irrigation Project to properly reflect the cost of labor, materials, equipment and services. The change is from $24.00 to $34.00 per acre per year.

EFFECTIVE DATE: This notice shall become effective on date of publication of this document in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Edmund L. Thompson, Superintendent, Bureau of Indian Affairs, Pima Agency, Sacaton, Arizona 85247, telephone number (602) 562-3326.

SUPPLEMENTARY INFORMATION: This notice is issued by authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 209 DM 8 and redelegated by the Deputy Assistant Secretary for Indian Affairs (Operations) to the Area Directors in 10 BIAM 3.

An analysis of the costs of operation and maintenance of the Indian Works of the San Carlos Irrigation Project was presented to representatives of the Tribe

and Aw-Tham Farmers Association and published in three local newspapers. Comments received were carefully considered in arriving at the new rate.

The notice shall read as follows:

San Carlos Irrigation Project, Indian Works

Annual Operation and Maintenance Charges

Charges

The basic charge entitles each acre to have delivered two (2) acre-feet of water or its proportionate share of the available water supply. Charges for project operation and maintenance costs on land used by Indians shall not be imposed on the Indian owners of such land.

For water delivered in excess of two (2) acre-feet per acre of Indian land leased to a non-Indian, there shall be charged $0.50 per acre-foot per acre for the first acre-foot of excess water or fraction thereof delivered, and $1.50 per acre foot or fraction thereof per acre of water delivered in excess of three (3) acre-feet per acre. There shall be no charge for free water delivered in accordance with existing regulations. The diversion right of six acre feet per acre less system losses establishes the duty of water to the land.

Payment

Basic charges shall become due on January 1 of each year and shall be payable on or before March 1st. No water shall be delivered to lands leased to non-Indians prior to payment of said basic charge. Payment for excess water as provided shall be made at the time of request or prior to the delivery thereof. Payment of these assessments and charges shall be made at the office of the Pima Agency Superintendent, Sacaton, Arizona.

Delivery

An application for water service shall be made to and approved by the Superintendent prior to the first delivery of water. For all subsequent deliveries of water, the water user will notify the watermaster or ditchrider when delivery is desired.

Distribution and Apportionment

The stored and pumped water of the project is a common water supply in which all project lands are entitled to share equitably. Water users will be notified at the beginning of the season of the amount of stored and pumped water available and at later dates of additional apportionments as they are made. Waste of water by users must be avoided as far as physically possible in order that the supply shall be sufficient for the entire area in crop. When floods produce a supply of water in excess of demands or available storage facilities, free water shall be declared available and all water users will be promptly notified thereof. Such water shall not be counted as a part of the apportioned share to the lands on which it is used.

Water Users Responsibility

Water users will be required to keep their farm ditches in suitable condition to take water from project laterals and to carry it to the lands being irrigated. Failure to do so may result in refusal of delivery of water to lands on which the farm ditches are not in condition to take the water ordered if this condition prevents proper operation of project laterals and structures and causes waste of water.

Dated: December 23, 1982.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-306 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-02-M

Te-Moak Shoshone Indian Reservation, Nevada; Ordinance Providing for the Introduction, Possession, Use, Consumption, and Sale of Intoxicating Beverages

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Ordinance 82-ORD-TM-01 which relates to the application of the Federal Indian Liquor Laws on the Te-Moak Shoshone Indian Reservation, Nevada, was duly adopted on May 7, 1982 and readopted and amended by Ordinance 82-ORD-TM-03 on July 9, 1982 by the Te-Moak Band of Western Shoshone Tribal Council which has jurisdiction over the area of Indian country included in the ordinance. 82-ORD-TM-03 and Ordinance 82-ORD-TM-01 as amended by Ordinance 82-ORD-TM-03 read as follows:

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

Ordinance No. 82-ORD-TM-03

Be it enacted by the Te-Moak Western Shoshone Council, that

Whereas, Ordinance No. 82-ORD-TM-01, an ordinance governing the possession and sale of alcoholic beverages was passed by the Te-Moak Tribal Council on May 7, 1982, and approved by the Superintendent of the Eastern Nevada Agency of the Bureau of Indian Affairs, Allen Core, on May 14, 1982, subject to the review of the Secretary of the Interior, and

Whereas, on July 2, 1982, the Assistant Area Director of the Phoenix Area Office of the Bureau of Indian Affairs, LaFollette Butler, informed the Acting Superintendent of the Eastern Nevada Agency of the Bureau of Indian Affairs, Albert Racine, that Section 9 of the subject ordinance should contain specific language guaranteeing a licensee's right of review before revocation of a license, and

Whereas, this ordinance has not been rescinded, and

Whereas, there is an immediate need for an ordinance to regulate the possession and sale of alcoholic beverages on the reservations and colonies of the Te-Moak Bands of Western Shoshone and to ensure that this ordinance be reviewed expeditiously.

Now therefore be it resolved, that the Te-Moak Western Shoshone Council re-adopts and amends Ordinance No. 82-ORD-TM-01 so that Section 9 reads:

"Section 9: Any licensee violating any provision of this ordinance may have said licensee's license suspended or revoked by the Te-Moak Western Shoshone Council provided that the licensee is given a written notice of the proposed suspension of revocation and afforded an opportunity for a hearing."

Be it further resolved, that all other provisions of the Te-Moak Liquor Ordinance No. 82-ORD-TM-01 other than herein prescribed shall remain the same and in full force and effect.

It is further resolved and urgently and respectfully requested that early, favorable review and approval be made by the Phoenix Area Office which will enable early certifications and publication in the **Federal Register** of the ordinance as amended, a copy of which is attached hereto and incorporated by reference, and implementation of said Te-Moak Liquor Ordinance at the earliest possible date.

Certification

I, the undersigned, as Chairman of the Te-Moak Western Shoshone Council, do hereby certify that the Te-Moak Western Shoshone Council is composed of 5 members, of whom 3 constituting a quorum were present at a duly held meeting on the 9th day of July, 1982, and that the foregoing Ordinance was duly adopted and approved at such meeting by the affirmative vote of 3 for, 0 against, 0 abstentions, pursuant to Article VII 1 (f) of the Constitution of the Te-Moak Bands of Western Shoshone Indians, Nevada, approved August 24, 1938, and Article II, Section 1 of the By-

Laws of the Te-Moak Bands of Western Shoshone Indians, Nevada, approved August 24, 1938.

Charles Marlotte,

Chairman, Te-Moak Western Shoshone Council.

Approved:

Melvin A Core,

Superintendent, Eastern Nevada Agency.

Dated: July 13, 1982.

Ordinance No. 82-ORD-TM-01 as Amended by Ordinance No. 82-ORD-TM-03

Now therefore, be it enacted by the Te-Moak Western Shoshone Council of the Te-Moak Bands of Western Shoshone Indians, Nevada, that pursuant to the authority vested in it by Article VII, Section 1 (f) of the Constitution of the Te-Moak Bands of Western Shoshone Indians, Nevada, and Article II, Section 1 of the By-Laws of the Te-Moak Bands of Western Shoshone Indians, Nevada, that the introduction, possession, use and consumption of alcoholic beverages shall be lawful within the exterior boundaries of those lands in the State of Nevada under the territorial jurisdiction of the Te-Moak Bands of Western Shoshone Indians, Nevada. Provided that such introduction, possession, use and consumption shall be in accordance with the following:

Section 1

(a) It shall be unlawful to sell alcoholic beverages by the bottle, drink, can or other package within the exterior boundaries of those lands of the State of Nevada under the territorial jurisdiction of the Te-Moak Bands of Western Shoshone Indians, Nevada, without first obtaining a valid license issued by the Te-Moak Western Shoshone Council.

(b) Such tribal license will authorize the holder thereof to sell alcoholic beverages at retail in cans, bottles or other packages, or by the drink for consumption on the premises or within a defined area.

(c) Such tribal license shall set forth the location and description of the building and premises or defined area where such sales may be made and for which said license is issued.

(d) No such license shall be issued without the approval of the local governing body of the Colony or Reservation of the Te-Moak Bands of Western Shoshone, Nevada, upon the territory of which the proposed alcoholic beverage business is seeking to be licensed.

(e) No such license shall be transferred without the prior consent of the Te-Moak Western Shoshone Council.

(f) The different categories of licenses and the license fee schedules shall be established annually by the Te-Moak Western Shoshone Council by a duly passed resolution.

(g) Any such license fee collected by the Te-Moak Western Shoshone Council shall be transmitted to the local governing body of the Colony or Reservation of the Te-Moak Bands of Western Shoshone upon the territory of which the alcoholic beverage business has been licensed.

Section 2

It shall be unlawful to use or consume any alcoholic beverages in a motor vehicle while such vehicle is being driven.

Section 3

It shall be unlawful to possess any open bottle, can package or container or alcoholic beverage in the passenger compartment of a motor vehicle when such vehicle is being driven.

Section 4

It shall be unlawful for any person actually under the influence of alcoholic beverages to possess, use or consume alcoholic beverages.

Section 5

It shall be unlawful for any person to furnish any alcoholic beverage to any person under the age of twenty-one (21) years or to leave or to deposit any alcoholic beverages with the intent that the alcoholic beverages shall be procured by any person under the age of twenty-one (21) years.

Section 6

It shall be unlawful for any person under the age of twenty-one (21) years of age to introduce, possess, use or consume alcoholic beverages.

Section 7

Any Irdian who violates any of the provisions of the ordinance shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine of not more than $300.00 or by imprisonment of not more than sixty (60) days or both such fine and imprisonment: Provided, however, that any person under the age of eighteen (18) years may, in the discretion of the judge, be treated as a juvenile and have the charge(s) disposed of pursuant to applicable juvenile law and procedures.

Section 8

When any provision of this ordinance is violated by a non Indian, he or she shall be referred to the State and/or Federal authorities for prosecution under applicable law.

Section 9

Any licensee violating any provision of this ordinance may have said licensee's license suspended or revoked by the Te-Moak Western Shoshone Council provided that the licensee is given a written notice of the proposed suspension or revocation and afforded an opportunity for a hearing.

Section 10

All ordinances, resolutions or acts that have previously been enacted by the Te-Moak Western Shoshone Council which are in conflict with any provision of this ordinance are hereby repealed.

[FR Doc. 83-305 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Chevron Phosphate Project, Vernal District, Utah, and Rock Springs District, Wyoming; Environmental Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of the draft environmental impact statement (DEIS). Establishment of 60-day public review and comment period and location sites and dates for public meetings on the DEIS.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the BLM and the State of Wyoming, Office of Industrial Siting Administration (ISA), have prepared a DEIS for a phosphate fertilizer plant project proposed for Sweetwater County in southwestern Wyoming. Components of the proposed project would also affect Uintah and Daggett Counties in northeastern Utah.

Chevron proposes to construct and operate a phosphate fertilizer plant approximately 4.5 miles southeast of Rock Springs in Sweetwater County, Wyoming. The plant would produce a combination of granular ammonium phosphate and liquid superphosphoric acid for agricultural purposes. In addition to the fertilizer plant complex, major components of the project would include a phosphate slurry pipeline extending from an existing phosphate mine north of Vernal, Utah, to the plant site; a water intake structure and pipeline from the Green River south of Green River, Wyoming; a railroad spur from Union Pacific's main line; and a county road relocation. Additional

facilities would consist of power substations, power transmission lines, and a microwave communications system. Water for the plant would be supplied from the Fontenelle Reservoir in Wyoming and, for the phosphate slurry pipeline, from an existing tailings pond at the mine site.

The required Federal actions include the issuance of rights-of-way for the linear facilities by the BLM and Forest Service and approval of a water sale contract between Chevron and the State of Wyoming by the Bureau of Reclamation.

The DEIS also analyzes the impacts of alternatives to the proposed location of the slurry pipeline, water supply line, water source, and no action.

The DEIS may require amendments to the BLM Vernal, Utah, District's Diamond Mountain and Brown's Park Management Framework Plans.

Dates

1. Comments will be accepted on the DEIS until March 15, 1983.

2. Public hearings will be held at the following places at 7 p.m.: February 15, 1983, Dutch John Conference Hall, Dutch John, Utah; February 16, 1983, Room C204, Western Wyoming Community College, Rock Springs, Wyoming.

ADDRESSES: Written comments, rquests for hearings information, summary description, and other information should be sent to Richard E. Traylor, Chevron EIS Project Leader, Bureau of Land Management, Division of EIS Services, First Floor East, 555 Zang Street, Denver, Colorado 80228, phone (303) 6737.

A limited number of single copies of the DEIS may be obtained from the above address. Copies are available for inspection at the following locations:

Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001

Bureau of Land Management, Rock Springs District Office, Highway 197 N. Rock Springs, Wyoming 82901

Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111

Bureau of Land Management, Vernal District Office, 170 South 500 East, Vernal, Utah 84078

Maxwell T. Lieurance,

State Director.

[FR Doc. 83-304 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-84-M

Carson City District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of Carson City District Advisory Council.

SUMMARY: The Council will meet at 9:00 a.m. Feb. 10, 1983, at the Carson City District BLM Office, 1050 E. William St., Suite 344, Carson City, Nevada.

SUPPLEMENTARY INFORMATION: The Council comprises ten members appointed by the Secretary of Interior to provide representative citizen advice to the Carson City District Manager on planning and managment of public lands and natural resources. The agenda for the meeting includes introductions, orientation of members to the Council and the Bureau, discussion of problems and issues, election of chairperson and vice chairperson, and public statements. The meeting is open to the public, and opportunity for anyone to present statements before the Council will be provided at 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Stephen A. Weiss, Public Affairs Officer, Bureau of Land Management, 1050 E. William St., Suite 335, Carson City, NV 89701; telephone (72) 882-1631.

Dated: December 28, 1982.

James W. Elliott,

Acting District Manager.

[FR Doc. 83-297 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-2763, AA-7005, AA-8226, AA-16841]

Alaska, Termination of Segregative Effect

Various Power Projects; Notice of Termination of Segregative Effect

1. In an order issued February 23, 1978, the Federal Energy Regulatory Commission vacated in its entirety the withdrawal created by the filing of S. M. Graff, of Seward, Alaska, on December 29, 1930, as amended on November 10, 1933, for the Power Project 1144.

Lowell Creek—Power Project 1144 (AA-8226)

Seward Meridian

T. 1S., R. 1W., Sec. 9,
all lands within 50 feet of the proposed and actual pipeline diverting from Lowell Creek, and west of U.S. Homestead Survey No. 703;
all lands within 100 feet of a line extending N. 79° W., 266 feet from the lower side of the intake house at the point where the center pipe emerges from the building.
(Containing approximately 10 acres.)

2. In an order issued January 8, 1973, the Federal Power Commission (now Federal Energy Regulatory Commission) vacated 38 power projects in their entirety. Power Project 297 is serialized AA-2763, Power Project 1315 is serialized AA-7005, the other 36 power projects are serialized AA-16841.

1. Project No. 63

Tongass National Forest, Alaska; Beardslee Creek, tributary to William Henry Bay, on the west side of Lynn Canal.

All lands enclosed by a line 200 feet outside the high water mark of the reservoir of approximately 175 acres formed by a log dam about 12 feet high, all lands within 100 feet of the center line of a conduit consisting of wood-stave pipe, 4,400 feet in length, extending from said dam, all lands within 100 feet of the powerhouse, and within 100 feet of a channel approximately 1,100 feet in length along North Fork of Beardslee Creek, by which water is returned from said powerhouse to Beardslee Creek, all as more fully shown and described on a map entitled "Alaska Endicott Mining and Milling Co.—Application for Preliminary Permit—Exhibit B," as filed in the office of the Federal Power Commission on January 3, 1922.

(Approximately 260 acres.)

2. Project No. 207

Little Susitna River Basin, near Palmer, Alaska.

All lands within one-fourth mile of Fishhook Creek lying between the 1400- and 1500-foot contours (datum mean sea level).

All lands within one-fourth mile of Little Susitna River lying between the 1000-and 1500-feet contours (datum mean sea level).

(Approximately 350 acres.)

3. Project No. 212

Tongass National Forest, Alaska; Chichagof Island.

All lands below the 150-foor contour, draining into two unnamed lakes and into a short stream connecting the two lakes, all located between one-half mile and 1½ miles inland from the head of Didrickson Bay; and all lands within 500 feet of the middle course of the stream approximately one-half mile long which forms the outlet of the lower of the two lakes and drains into the tidal arm at the northwest corner of Didrickson Bay; a strip of land 500 feet in width extending along the easterly shore of the tidal arm from its southerly point to the outlet of the above-mentioned creek. These features are shown on a map designated as "Exhibit 'A' " and entitled "Proposed Power Development, Hirst-Chichagof

Mining Co.," filed in the office of the Federal Power Commission on May 10, 1921.

(Approximately 250 acres.)

4. Project No. 241

Tongass National Forest, Alaska; Stream at head of Pavlof Harbor, Freshwater Bay, Chichagof Island.

All lands within the surveyed boundary of the reservoir or within 50 feet outside thereof, and all lands within 50 feet of the center line of the conduit location, all as shown and more particularly described on a map designated as "Exhibit F" and entitled "Map to Accompany Application to U.S. Forest Service for Final Permit for Water Power Project at Pavlof Harbor—Freshwater Bay—Alaska, by Freshwater Bay Lumber Co. of Douglas, Alaska," and filed in the office of the Federal Power Commission on August 16, 1921.

(Approximately 15 acres.)

5. Project No. 297 (AA-2763)

Craigie Creek, tributary to Willow Creek, Susitna River Basin, near Palmer, Alaska.

All lands within one-eighth of Craigie Creek between elevations 2,200 feet and 2,700 feet (datum mean sea level).

(Approximately 160 acres.)

6. Project No. 353

Tongass National Forest, Alaska.

All lands of the United States lying within 50 feet of the center line of the transmission line location 21,500 feet in length, extending from the town limits of Skagway, along the Skagway River, in a northerly direction to the powerhouse location, all as shown on a map designated "Exhibits J and K" and entitled "Home Power Co., Skagway, Alaska," and filed in the office of the Federal Power Commission on May 21, 1927.

(Approximately 29 acres.)

7. Project No. 402

Archangel Creek, tributary to Little Susitna River, near Palmer, Alaska.

All lands lying within one-fourth mile of Archangel Creek from the mouth of Reed Creek downstream to the junction of Archangel Creek with Little Susitna River.

(Approximately 480 acres.)

8. Project No. 404

Chugach National Forest, Alaska; Port Wells, Prince William Sound.

All lands within 50 feet of the center line of the pipeline, approximately 4,100 feet in length, extending westerly from the powerhouse on the west shore of Harrison Lagoon to the outlet of an unnamed lake on Lagoon Creek; all lands within a radius of 200 feet of the center of the powerhouse, all lands within 200 feet of the shores of the lake; all as shown on an amended map entitled "Preliminary Application for License for Minor Power Projects at Harrison Lagoon, Alaska"; filed in the office of the Federal Power Commission on December 8, 1924, and made a part of the license by Amendment No. 1, dated February 7, 1925.

(Approximately 20 acres.)

All lands of the United States lying within 50 feet of the center line of the constructed transmission line location, approximately 6,300 feet in length, extending southwesterly from the powerhouse on the west shore of Harrison Lagoon to the Granite mine stampmill as shown on the above-described map.

(Approximately 14 acres.)

9. Project No. 511

Tongass National Forest; Thumb Creek, tributary to Salmon River, near Hyder, Alaska.

Project No. 511 affected lands lying along Thumb Creek from its mouth to a point about three-fourths mile upstream. A precise boundary was not established for this project.

(Acreage not determined.)

10. Project No. 580

Tongass National Forest; Fish Creek, tributary to Salmon River, near Hyder, Alaska.

All lands within .2 of a mile of that section of Fish Creek between the south line of surveyed Fish Creek Lode Claim No. 5 (Survey No. 1482) and the Salmon River Highway, a distance of approximately .6 miles.

(Approximately 183 acres.)

11. Project No. 599

Archangel Creek, tributary to Little Susitna River, near Palmer, Alaska.

All lands lying within 100 feet of "Lower Lake" located approximately 2 miles up Archangel Creek from its confluence with Reed Creek; also all other lands lying within the project area shown on a map designated "Exhibit F" and entitled: "Map Accompanying Application of Fern Gold Mining Co., for License for Water Power Project, Archangel Creek, Willow Creek Mining District, Territory of Alaska," filed in the office of the Federal Power Commission on April 10, 1925.

(Approximately 6 acres.)

12. Project No. 731

Tongass National Forest, Alaska; Kupreanof Island, Gunnock Creek, near Kake.

All lands within the triangular shaped "Power Location" and all lands within 50 feet of the center line of the constructed conduit location 2,308 feet in length extending from said "Power Location" along Gunnock Creek northerly to the dam site; and all lands within 50 feet of the 1¼ acre storage reservoir above the dam, all as shown on a map entitled "Water Power Project, Sanborn-Cutting Co., Kake, Alaska," and filed in the office of the Federal Power Commission on July 28, 1926.

(Approximately 8 acres.)

All lands lying within 50 feet of the center line of the transmission line location extending approximately 3,740 feet between the powerhouse on Gunnock Creek and the north boundary of the patented tract known as U.S. Survey No. 963, as shown on the above-described map.

(Approximately 8 acres.)

13. Project No. 783

Tongass National Forest, Alaska; Prince of Wales Island.

All lands within 200 feet of the reservoir above the constructed dam on Chomly Creek and all lands within 50 feet of the center line of that portion of the constructed conduit extending 2,250 feet from said dam to the south boundary of the Chomly cannery site, all as shown on a certain map designated "Exhibit F" which formed a part of the license issued by the Federal Power Commission on may 24, 1927.

(Approximately 12 acres.)

14. Project No. 793

Tongass National Forest, Alaska; Baranof Island.

All lands lying within 200 feet of the marginal limits of Deep Lake, and all lands lying within 50 feet of the center line of the flume and conduit locations extending along Red Bluff Creek for a distance of approximately 1,200 feet to the Wakefield Fisheries cannery on Red Bluff Bay, all as shown on a map designated "Exhibit F" and entitled "Map Showing Project Boundary Accompanying Application for License of Wakefield Fisheries, situated on north shore of Red Bluff Bay 1½ nautical miles northwest from entrance, Baranof Island," and filed in the office of the Federal Power Commission on April 12, 1927.

(Approximately 24 acres.)

15. Project No. 794

Tongass National Forest, Alaska; Chichagof Island.

All lands within 50 feet of the center line of the flume and conduit location extending from the 2-foot dam across

Margaret Creek for a distance of approximately 3,800 feet to the point of intersection of the pipeline with the south boundary of U.S. Survey No. 1657, the trade and manufacturing site for which patent has been applied for by the Deep Sea Salmon Co., all as shown on a map designated "Exhibit F" and entitled "Map Showing Project Boundaries Accompanying Application for License of Deep Sea Salmon Co., situated on Margaret Creek, Port Althorp, No. end of Chichagof Island, Alaska," and filed in the office of the Federal Power Commission on April 12, 1927.

(Approximately 9 acres.)

16. Project No. 807

Chugach National Forest, Alaska; Knight Island.

All lands within 25 feet of the center line of the conduit location extending 1,300 feet upstream along the unnamed creek on south side of Drier Bay, Knight Island, as shown on a map designated "Exhibit E" and entitled "Map Accompanying Application of Gorman Parking Corporation for License for Water Power Project, Unnamed Creek on Drier Bay, Knight Island, Alaska," and filed in the office of the Federal Power Commission on May 18, 1927.

(Approximately 2 acres.)

17. Project No. 812

Tongass National Forest, Alaska; Prince of Wales Island.

All lands of the United States lying within 200 feet of the marginal limits of a reservoir formed by a 7-foot dam across Harris Creek, and all lands of the United States lying within 50 feet of the center line of the flume location extending 1,286 feet downstream from said dam along Harris Creek to the powerhouse location on the bank of the creek, all as shown on a map designated "Exhibit J" and entitled "Map Showing Project Boundaries Accompanying Application for License of Kasaan Gold Co., situated on Harris Creek, 1.7 miles southwest of Hollis, Twelve-mile Arm, Kasaan Bay, Prince of Wales Island, Alaska," and filed in the office of the Federal Power Commission on June 3, 1927.

(Approximately 10 acres.)

18. Project No. 840

Tongass National Forest; Spruce Creek, at the head of Windham Bay on the mainland of southeastern Alaska.

All lands within 50 feet of the center line of a proposed pipeline to extend 1,956 feet in a southerly direction from the point of intake (elevation 1,775 feet) at the 20-foot dam to be built at the outlet of a small basin in the creek valley, to the delivery point at the northwest corner of the Jacob Marty amalgamating and concentrating mill, and all lands within 50 feet of the maximum flow line of the reservoir to cover approximately 40 acres above said dam, all as shown on a map designated "Exhibit B" and entitled "Spruce Creek Power Project, Windham Bay, Tongass National Forest, Alaska, Map to Accompany Application of Jacob Marty Mines for License for Minor Project," and filed in the office of the Federal Power Commission on October 8, 1927.

(Approximately 57 acres.)

19. Project No. 876

Tongass National Forest, Alaska; Prince of Wales Island.

All lands within 50 feet of the maximum flow line of a small reservoir of 300 feet elevation, created by a constructed dam 5-feet long and 8-feet high on an unnamed creek entering the North Arm of Moira Sound, adjacent to the west side of applicant's salmon cannery at latitute 55°07' N., longitude 132°08' W., and all lands within 50 feet of the center line of the conduit line location extending 2,200 feet from said dam to a water wheel located at slightly more than tidewater elevation in the cannery building, all as shown on a map designated "Exhibit E" and entitled "The Starr Collinson Packing Co., North Arm Moira Sound, Tongass National Forest, Alaska, Map to Accompany Application for License for Minor Project," and filed in the office of the Federal Power Commission on February 4, 1928.

(Approximately 6 acres.)

20. Project No. 954

Tongass National Forest; Granite Creek, tributary to Salmon River, near Hyder, Alaska.

This project was redesignated as Project No. 1043 (described below) after a transfer of ownership.

(Acreage not determined.)

21. Project No. 1023

Tongass National Forest, Alaska; Baranof Island.

All lands within the powerhouse site and dam site; all lands within 25 feet of the center line of the pipeline location from the dam site to the powerhouse site, and approximately 1,000 feet in length; all lands within 50 feet of the maximum flow line of Cliff Lake Reservoir; all as shown on a map designated "Exhibit F" and entitled "Deep Cove Power Project, Baranof Island, Tongass National Forest, Alaska, Map to Accompany Application of the Atlas Packing Corporation for License for Minor Project, Surveyed October 3, 1928, by Wellman Holbrook," and filed in the office of the Federal Power Commission on October 3, 1929.

(Approximately 13 acres.)

22. Project No. 1043

Tongass National Forest; Granite Creek, tributary to Salmon River, near Hyder, Alaska.

All lands within the powerhouse site, 200 feet-square, and all lands within 50 feet of the constructed diversion dam on Granite Creek; all lands within 50 feet of the center line of the flume and pipeline extending from the diversion dam to the powerhouse; all lands lying within 50 feet of the center line of the transmission line location extending from the powerhouse to the town of Hyder; all as shown on a map designated "Exhibit F" and entitled "Granite Creek Project, Tongass Power and Light Co., Hyder, Alaska," and filed in the office of the Federal Power Commission on December 16, 1929.

(Approximately 33 acres.)

23. Project No. 1082

Tongass National Forest, Alaska; Prince of Wales Island.

All lands lying within the project boundaries surrounding the small diversion dam on Linkum Creek, and all lands lying within 50 feet of the center line of the pipeline location along said creek between the dam and the boundary line of U.S. Survey No. 280; all as shown on a map designated "Exhibit F" and entitled "Map Showing Project Boundaries Accompanying Application for License of Booth Fisheries Co., situated on Linkum Creek, Kasaan Bay, East Coast of Prince of Wales Island, Southeast Alaska," and filed in the office of the Federal Power Commission on April 15, 1930.

(Approximately 1 acre.)

All lands of the United States on the North Shore of Kasaan Bay lying within 50 feet on either side of the pipeline location and extending approximately 200 feet beyond the diversion dam on Linkum Creek, all as shown on a map designated "Exhibit F" and entitled "Map Accompanying Application of the Pacific American Fisheries Inc., for Amendment of License No. 1082 for a Water Power Project on Linkum Creek, Kasaan Bay, East Coast of Prince of Wales Island—Territory of Alaska," and filed in the office of the Federal Power Commission on April 30, 1937.

(Approximately 7.60 acres.)

24. Project No. 1085

Tongass National Forest; Glory Creek, near Port Houghton on the mainland of southeastern Alaska.

All lands of the United States lying within 100 feet of Glory Creek from its mouth to the proposed dam site, a distance of approximately three-quarters of a mile; and all lands of the United States lying within 750 feet of Glory Creek from the proposed dam site to a point three-quarters of a mile above the dam site; all as shown on a map designated and entitled "Exhibits H and I, Glory Creek Project," and filed in the office of the Federal Power Commission on April 21, 1930.

(Approximately 154 acres.)

25. Project No. 1098

Snowbird Creek, a tributary of Anchorage Bay, an arm of Chignik Bay, on the south coast of the Alaska Peninsula.

All United States lands lying within 100 feet of the timber diversion dam on Snowbird Creek, and within 100 feet of the center line of a wood pipeline 1,480 feet in length from diversion dam to the boundary of trade and manufacturing site (U.S. Survey No. 306), all as shown on a map designated "Exhibit F" and entitled "Map Showing Project Boundaries Accompanying Application for License of Booth Fisheries Co. Situated on Snowbird Creek, Anchorage Bay, an arm of Chignik Bay, Alaska Peninsula, Alaska," and filed in the office of the Federal Power Commission on June 5, 1930.

(Approximately 4 acres.)

26. Project No. 1162

Tongass National Forest, Alaska; Baranof Island.

All lands within 100 feet of the flume pipeline, and all lands within 100 feet of the unnamed creek between the diversion dam and a point 200 feet upstream, except lands included within the Northwestern Herring Company cannery site; all as shown on a map designated "Exhibits C & F" and entitled "Northwestern Herring Company, Port Conclusion, Alaska," and filed in the office of the Federal Power Commission on April 9, 1931.

(Approximately 7 acres.)

27. Project No. 1204

Chugach National Forest; Hanley Creek, a tributary to McClure Bay, Port Nellie Juan, Alaska.

All lands within 50 feet of the center line of the flume and pipeline extending from the present diversion dam to the east boundary of cannery site of the Copper River Packing Company, under special use permit by the Forest Service, and all lands within 50 feet of Hanley Creek between Hanley Lake and the present diversion dam; all as shown on a map designated "Exhibit F" and entitled "Map Showing Project Boundaries Accompanying Application for License (Minor Project) of Copper River Packing Company," and filed in the office of the Federal Power Commission on April 2, 1932.

(Approximately 5 acres.)

28. Project No. 1207

Chaugach National Forest; Sahlin Creek, Triubtary to Sheep Bay, about 13 miles northwest of Cordova, Alaska.

All lands within 25 feet of the center line of the flume and pipeline extending from Sahlin Creek to a sawmill on the shore of Sheep Bay, and all lands embraced in the powerhouse site on Sheep Bay adjacent to the mouth of Sahlin Creek; all as shown on a map designated "Exhibit E" and entitled "Sahlin Creek Power Power Project, Sheep Bay, Chugach National Forest, Alaska, Map to Accompany Application of H.G. Cloes for License for Minor Project," and filed in the office of the Federal Power Commission on May 9, 1932.

(Approximately 1 acre.)

29. Project No. 1230

Chugach National Forest; Stevens Creek, tributary to Orca Inlet, Alaska.

All lands within 50 feet of the center line of the tunnel, flume, and pipeline, extending from an intake on Stevens Creek to and beyond the shore of Orca Inlet, and all lands within 50 feet of the intake and main water wheel; all as shown on a map designated "Exhibit E" and entitled "Premier Salmon Company, Alaska, Chugach National Forest, Map to Accompany Application for License for Minor Project," and filed in the office of the Federal Power Commission on December 13, 1932.

(Approximately 2 acres.)

30. Project No. 1286

Tongass National Forest; Prince of Wales Island, Tunnel Creek, near Dolomi Bay, Alaska.

All lands of the United States lying within 200 feet of the normal water levels of Upper and Lower Lakes; and all lands of the United States lying within 1,000 feet of the normal water level of Paul Lake from the old mouth of the creek to a point 3,500 feet eastward therefrom; all as shown on a map entitled "General Map & Profile, Tunnel Creek Project, Dolomi, Alaska, of the B.C. Alaska Mines American Inc., Ketchikan, Alaska, dated July 1934," and filed in the office of the Federal Power Commission on August 6, 1934.

(Approximately 46 acres.)

31. Project No. 1315 (AA–7005)

Dahl Creek, near Hood Bay, Admiralty Island, Alaska.

All lands of the United States on the north shore of Hood Bay included within the project boundaries surrounding the powerhouse site and the intake dam on Dahl Creek; also all lands within 20 feet of each side of the center line of the pipeline location between the dam and powerhouse; all as shown on the project map designated "Exhibit A" and filed in the office of the Federal Power Commission on May 23, 1935.

(Approximately 1 acre.)

32. Project No. 1322

Unnamed Lake near Port Hobron, Sitkalidak Island, Alaska.

All lands of the United States lying within the project boundary as shown on a map designated "Exhibit H" and entitled "Map Accompanying Application of Chirikof Island Cattle Company for Preliminary Permit for Water Project on a Small Unnamed Lake on Sitkalidak Island, Alaska," and filed in the office of the Federal Power Commission on July 23, 1935.

(Acreage not determined.)

33. Project No. 1357

Tongass National Forest; Goemere Creek (Box Canyon), tributary to Washington Bay, Kuiu Island, Alaska.

All lands of the United States on the north shore of Washington Bay lying within 50 feet of the dam on Box Canyon and all lands lying within 50 feet of the center line of each of two pipeline locations leading from the diversion dam to the fish-packing plant, all as shown on a map designated "Exhibit F" and entitled "Storfold and Grondahl Packing Company, Kuiu Island, Alaska, Tongass National Forest, Map to Accompany Application for License for Minor Project, Survey by J.M. Wyckoff, P.R. May 25, 1932," and filed in the office of the Federal Power Commission on December 18, 1935.

(Approximately 1.5 acres.)

34. Project No. 1429

Kodiak Island, Alaska.

All lands of the United States on the west shore of Uyak Bay lying within 50 feet on either side of the pipeline location and extending 50 feet beyound the flood area above the diversion dam, as shown on a map entitled "Domenici Power Project, Uyak Bay, Kodiak Island, Alaska, Map to Accompany Application of Herbert T. Domenici for License for Minor Project, Surveyed July 20, 1936, by Harold E. Smith, Dist. Ranger," and filed

in the office of the Federal Power Commission on March 31, 1937.

(Approximately 3.26 acres.)

35. Project No. 1880

Chugach National Forest; Hanley Creek, tributary to McClure Bay, Port Nellie Juan, Alaska.

All lands lying within a strip 100 feet in width embracing the dam pipeline, powerhouse, and transmission line right-of-way locations, and all lands lying within a line parallel to and 50 feet distant, horizontal measurement, from the mean high water level of Hanley Lake, all as shown on a revised map designated "Exhibts J, K, and L" and entitled "Map Showing Project Boundaries Accompanying Application for License (Major Project) of Copper River Packing Company," and filed in the office of the Federal Power Commission on January 26, 1943.

(Approximately 45.9 acres.)

36. Project No. 1947

Gull Rock Creek (Johnson Creek), tributary to Turnagain Arm of Cook Inlet, about 6 miles Northwest of Hope, Alaska.

All lands of the United States lying within the project boundary surrounding the dam, flume, penstock, pipelines, powerplants, and tailraces, as shown on a map designated "Exhibit K" and entitled "Map to Accompany Application for License for Minor Project of E. M. Turpin on Gull Rock Creek—Turnagain Arm, Alaska," and filed in the office of the Federal Power Commission on March 15, 1946.

(Approximately 1.582 acres.)

37. Project No. 1969

Chena Slough, near Fairbanks, Alaska.

All lands of the United States lying within the project boundary as shown on a map designated "Exhibt K" and entitled "Power Project of Cline S. Koonz, Fairbanks, Alaska," and filed in the office of the Federal Power Commission on June 3, 1947.

(Acreage not determined.)

38. Project No. 2046

Unnamed Stream at the head of Bear Cove, an arm of Kachemak Bay, Kenai Peninsula, Alaska.

Project No. 2046 affected lands lying along the unnamed stream at the head of Bear Cove. A precise boundary was not established for this project.

(Acreage not determined.)

The above described lands are hereby relieved of the segregative effect of the withdrawal for the power projects, and are hereby restored to operation of the applicable public land laws, subject to valid existing rights and the provisions of existing withdrawals. If any of the above described lands are subject to Public Land No. 5418 of March 25, 1974 they are also made subject to the terms and conditions of, and are withdrawn by, Public Land Order No. 6092 of November 20, 1981 which made certain lands available for selection by the State of Alaska.

Robert E. Sorenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-309 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial Number F-13951]

Alaska; Termination of Proposed Withdrawal and Reservation of Lands

The U.S. Fish and Wildlife Service filed application F-13951 on May 25, 1971, for the withdrawal of approximately 876 acres of public lands lying within the Arctic National Wildlife Range. The lands were formerly withdrawn for DEW line sites by the Department of the Air Force and later transferred to the Department of the Navy.

Notice was published in the **Federal Register** August 31, 1971 (Vol. 36, No. 169, FR Doc 71-12700 filed 8/30/71), and republished on June 23, 1977 (Vol. 42, No. 121, FR Doc. 77-17905 filed 6/22/77).

Pursuant to Section 303 "Additions to Existing Refuges" of Public Law 96-487 of December 2, 1980, these lands are now part of the Arctic National Wildlife Refuge. Therefore, this proposed withdrawal is no longer necessary and is hereby terminated. The lands remain part of the Arctic National Wildlife Refuge under the jurisdiction of the U.S. Fish and Wildlife Service.

Dated December 28, 1982.

Robert E. Sorenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-300 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 24850 (Wash.)]

Realty Action—Sale; Public Land in Yakima County, Washington

The following described land has been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2743, 2750, 43 U.S.C. 1713), at no less than the appraised fair market value shown:

Willamette Meridian, Washington

T. 10 N., R. 22 E., Section 32

Parcel No.	Legal description	Acreage	Value
1	N½NW¼	80.00	$23,200
2	S½NW¼	80.00	19,000
3	SW¼NE¼, NW¼SE¼	80.00	11,100

The sale will be held on March 8, 1983, in Room 232 at the Yakima County Courthouse, North 1st and B Streets, Yakima, Washington. Registration of bidders will begin at 1:00 p.m. and the sale will start upon completion of registration.

These parcels are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another federal agency. There are no significant resource values which will be affected by this disposal and the sale of these parcels will allow agricultural development of suitable portions. There is no legal access to these parcels. The sale is consistent with the BLM's planning for the land involved and the public interest would be served by offering this land for sale.

Patent reservations applicable to this sale are:

1. A reservation to the United States for ditches and canals (43 U.S.C. 945).

2. All mineral rights will be reserved to the United States (43 U.S.C. 1719).

3. Patent to Parcel No. 1 will be issued subject to power line right-of-way W-04088 to Benton Rural Electric Association.

The above described land will be offered for sale by sealed and oral bids using competitive bidding procedures (43 CFR 2711.3-1). No bid will be accepted for less than the appraised value, and bids for a parcel must include all the land in the parcel. Federal law requires that individuals be 18 years of age or over and U.S. citizens, and corporations be subject to the laws of any State of the United States.

Bids must be made by the principal or his duly qualified agent, by either: (1) Sealed bids mailed or delivered to the Spokane District Office, or (2) oral bids made at the sale. Bids delivered or sent by mail must be received at the Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, WA 99202, before 4:00 p.m., March 4, 1983, to be considered. Each sealed bid must be accompanied by certified check, postal money order, bank draft, or cashier's check, made payable to the Bureau of Land Management for not less than one-fifth of the amount of each bid. The sealed envelope must be marked in the lower left-hand corner as follows: "Public Sale Bid Parcel No. —, Serial No. OR 24850. Sale held March 8, 1983."

If two or more envelopes are received containing valid bids of the same amount for the same parcel, the successful bid shall be determined by drawing. The highest qualifying sealed bid on each parcel will determine the base of the oral bidding conducted the day of the sale. The highest bid price, either sealed or oral, will be the sale price. The successful bidder will be required to pay one-fifth the full sale price immediately at the close of the sale and the remainder within 30 days. Failure to submit the full sale price within 30 days shall cancel sale of the specific parcel and the bidder's deposit will be forfeited. All unsuccessful bids will be returned within 30 days of the sale date.

Detailed information concerning the sale, including the planning documents, land report, environmental assessment, and fair market appraisal, is available for review at the Bureau of Land Management, Spokane District Office, at the above address.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Spokane District Manager, at the above address. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, the realty action will become the final determination of the Department of the Interior.

Date of issue: December 29, 1982.

Roger W. Burwell,

District Manager.

[FR Doc. 83-299 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-84-M

[INT DEIS 82-80]

Arizona Strip Wilderness Study Areas Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of draft environmental impact statement (draft EIS).

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, BLM has prepared a draft EIS on the Proposed Wilderness Program for the Arizona Strip District, Coconino and Mohave Counties, Arizona. The EIS also addresses one wilderness study area in Washington County, Utah.

The draft EIS analyzes 41 WSAs and 3 ISAs (Instant Study Areas) which were not covered by an earlier EIS.

The Proposed Action (Preferred Alternative) recommends as suitable for inclusion in the National Wilderness Preservation System all or portions of 8 wilderness study areas (WSAs). The total public land in the 8 areas is 26,186 acres. The following table lists the WSAs and the total suitable and nonsuitable WSA acres.

There are 4 additional alternatives analyzed in the draft statement. They are: All Wilderness (41 WSAs and 3 ISAs, 774,148 acres), Wildland Preservation (21 WSAs, 531,268 acres), Enhanced Wilderness (13 WSAs, 175,107 acres) and No Wilderness (no action).

PROPOSED ACTION

[BLM's Preferred Alternative]

Wilderness study areas		Public land acres		
No.	Name	WSA	Suitable	Nonsuitable
005	Starvation Point	27,212	0	27,212
006A	Ferry Swale	7,370	0	7,370
006B	Judd Hollow	506	506	0
006C	Paria Rim	106	106	0
006D	Cedar Mountain	12	12	0
008A/19	Paria Plateau	104,988	2,880	102,108
008B	Overlook	7,348	0	7,348
009	Emmett Wash	12,913	0	12,913
031	Kanab Creek	39,242	0	39,242
033A	Hack Canyon	63,682	12,531	51,151
034	Robinson	9,441	0	9,441
050	Torweap	5,312	0	5,312
051	Mt. Logan	6,803	0	6,803
052	Mt. Trumbull	7,285	7,285	0
091	Poverty Mountain	7,872	0	7,872
093	Parashaunt	38,938	0	38,938
096A	Dansil Canyon	294	0	294
096C	Grassy Mountain	5,503	0	5,503
096D	Andrus Canyon	48,248	0	48,248
097	North Dellenbaugh	10,678	0	10,678
099	G & F	640	0	640
104A	Salt House	13,465	0	13,465
104B	Mustang Point	25,912	0	25,912
105A	Nevershine Mesa	19,457	0	19,457
105B	Snap Point	9,500	0	9,500
105C	Tincanebitts	2,715	0	2,715
107	Grand Gulch	8,141	0	8,141
109	Pigeon Canyon	33,348	0	33,348
111	Last Chance	33,985	0	33,985
112	Grand Wash Cliffs	31,503	0	31,503
114	Pakoon Springs	24,832	0	24,832
119	Hidden Rim	16,563	0	16,563
124	Hobble Canyon	11,825	0	11,825
127	Ide Valley	7,970	0	7,970
128	Sand Cove	40,061	0	40,061
129	Virgin Mountains	37,681	0	37,681
130	Virgin River	1,440	1,440	0
132	Purgatory	7,557	0	7,557
134	Lime Hills	12,610	1,426	11,184
135	Narrows	7,725	0	7,725
136	Mt. Emma	6,480	0	6,480
ISA-3	Vermillion Cliffs	14,671	0	14,671
ISA-4	Big Sage	160	0	160
ISA-5	Turbinella-Gambel Oak	154	0	154
Totals	44	774,148	26,186	747,962

SUPPLEMENTARY INFORMATION: BLM invites written comments on the draft EIS to be submitted within 60 days of its filing with the Environmental Protection Agency. Comments should be sent to the District Manager, Bureau of Land Management, Arizona Strip District Office, 196 East Tabernacle, P.O. Box 250, St. George, Utah 84770.

A limited number of draft EIS copies may be obtained upon request to the District Manager at the above address.

Public reading copies may be reviewed at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, Telephone (202) 343-5717

Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, Telephone (602) 261-3706

Arizona Strip District Office, Bureau of Land Management, 196 East Tabernacle, P.O. Box 250, St. George, Utah 84770, Telephone (801) 673-3545

BLM will receive oral and written comments at the formal public hearings to be held on February 1, 1983 in Flagstaff, Arizona, February 2, 1982 in Kingman, Arizona, and February 3, 1983 in St. George, Utah. The Flagstaff hearing will be set at 7:30 p.m. at the Evergreen Motel. The Kingman hearing

will be held at 7:30 p.m. at the Mohave County Fairgrounds. The St. George hearing will be held at 7:30 p.m. at the Four Seasons Convention Center.

A solicitor from the Department of the Interior will preside over the hearings. Witnesses presenting oral comments should limit their testimony to 10 minutes. Those wanting to testify should send a written request to the District Manager, Bureau of Land Management, Arizona Strip District, 196 East Tabernacle, P.O. Box 250, St. George, Utah 84770.

BLM will give written and oral comments on the draft EIS equal consideration during preparation of Final EIS.

Dated: December 29, 1982.

G. William Lamb,

District Manager.

[FR Doc. 83-245 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Gulf of Mexico Outer Continental Shelf; Availability of Final Regional Environmental Impact Statement Regarding Proposed Gulf of Mexico Oil and Gas Lease Sale Nos. 72, 74, and 79

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service has prepared a final regional environmental impact statement (EIS) relating to proposed oil and gas lease Sale Nos. 72, 74, and 79. The proposal involves the offering of all unleased blocks on the Outer Continental Shelf (OCS) in the Gulf of Mexico.

Single copies of the final regional EIS can be obtained from the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, P.O. Box 7944, 3301 N. Causeway Boulevard, Metairie, Louisiana 70010.

Copies of the final regional EIS will also be available for review in the following public libraries: Austin Public Library, 401 West Ninth Street, Austin, TX; Houston Public Library, 500 McKinney Street, Houston, TX; Rosenberg Library, 2310 Sealy Street, Galveston, TX; Dallas Public Library, 1954 Commerce Street, Dallas, TX; Brazoria County Library, 410 Brazosport Boulevard, Freeport, TX; LaRatama Library, 505 Mesquite Street, Corpus Christi, TX; Texas Southmost College Library, 80 Fort Brown Street, Brownsville, TX; New Orleans Public Library, 219 Loyola Avenue, New Orleans, LA; Louisiana State Library, Baton Rouge, LA; Lafayette Public Library, 301 West Congress Street, Lafayette, LA; Calcasieu Parish Library, Downtown Branch, Lake Charles, LA; Harrision County Library, 21st Avenue and Beach Street, Gulfport, MS; Mobile Public Library, 701 Government Street, Mobile, AL; Montgomery Public Library, 445 South Lawrence Street, Montgomery, AL; St. Petersburg Public Library, 3745 Ninth Avenue North, St. Petersburg, FL; West Florida Regional Library, 200 West Gregory Street, Pensacola, FL; Northwest Regional Library System, 25 West Government Street, Panama City, FL; Leon County Public Library, 127 North Monroe Street, Tallahassee, FL; Lee County Library, 3355 Fowler Street, Fort Myers, FL; Charlotte-Glades Regional Library System, 801 NW Aaron Street, Port Charlotte, FL; and Tampa-Hillsborough County Public Library System, 800 North Ashley Street, Tampa, FL.

David C. Russell,

Deputy Director, Minerals Management Service.

Approved: December 30, 1982.

John H. Farrell,

Acting Director Environmental Project Review.

[FR Doc. 83-296 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-MR

National Park Service

Golden Gate National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden National Recreation Area Advisory Commission will be held at 7:30 p.m. (PST) on Wednesday, January 19, 1983, at the GGNRA Headquarters, Building 201, Fort Mason, San Francisco, California.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin and San Francisco counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Berger Benson
Mr. Fred Blumberg
Ms. Margot Patterson Doss
Mr. Jerry Friedman
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Burr Heneman
Mr. John Jacobs
Ms. Gimmy Park Li
Mr. John Mitchell
Mr. Merritt Robinson
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

Major agenda items for this meeting will be Muir Woods concession expansion, Hyde Street Pier redevelopment, and an update on the Delta King proposal.

The meetings are open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact John H. Davis, General Superintendent of the Golden Gate National Recreation Area, Fort Mason, San Francisco, California 94123; telephone (415) 556-2920.

Minutes of this meeting will be available for public information by February 21, 1983 in the Office of the Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, California 94123.

Dated: December 16, 1982.

John D. Cherry,

Acting Regional Director, Western Region.

[FR Doc. 83-306 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-70-M

National Capital Memorial Advisory Committee; Committee Renewal

This notice is published in accordance with the provisions of Section 7(a) of the Office of Management and Budget Circular A63 (revised). Pursuant to the authority contained in Section 14(a) of the Federal Advisory Committee Act (Pub. L. 92-463), the Secretary of the Interior has determined that renewal of the National Capital Memorial Advisory Committee is necessary and in the public interest.

The purpose of the committee is to advise the Secretary of the Interior on broad criteria, guidelines, and policies for memorializing persons and events on Federal lands in the National Capital Region.

The General Services Administration concurred in the renewal of this committee on December 20, 1982.

Further information regarding this committee may be obtained from Shirley M. Luikens, Advisory Boards and

Commissions, National Park Service, Department of the Interior, Washington, D.C. 20240 (202–343–2012).

Dated: December 21, 1982.

Robert A. Ritsch,

Associate Director, Recreation Resources, National Park Service.

[FR Doc. 83-365 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

[INT-DES 82-81]

Lower Gunnison Basin, Unit, Colorado River Water Quality Improvement Program; Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a proposed feasibility report/draft environmental statement on a proposed salinity control project that would reduce salt loading to the Colorado River system by lining canals and laterals in Delta and Montrose Counties in western Colorado. Written comments may be submitted to the Regional Director by March 31, 1983.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, D.C. 20240, telephone: (202) 343–4991.

Division of Management Support, General Service, Library Section, Code 950, Engineering and Research Center, Denver Federal Center, Denver, Colorado 80225, telephone: (303) 234–3019.

Regional Director, Bureau of Reclamation, Upper Colorado Regional Office, P.O. Box 11568, Salt Lake City, Utah 84147, telephone: (801) 524–5592.

Grand Junction Projects Office, Bureau of Reclamation, 764 Horizon Drive, Grand Junction, Colorado 81501, telephone: (303) 243–4992.

Montrose Projects Office, Bureau of Reclamation, P.O. Box 1390, Montrose, Colorado 81401, telephone: (303) 249–9687.

Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, or the Regional Director at the above addresses. Copies will also be available for inspection in libraries in the project vicinity.

Dated: December 30, 1982.

Jed D. Christensen,

Acting Commissioner.

[FR Doc. 83-386 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the second meeting of the Joint Committee on Agricultural Research and Development (JCARD) of the Board for International Food and Agricultural Development (BIFAD) on January 24 and 25, 1983.

The purpose of the meeting is to develop and adopt an agenda for JCARD activities in 1983; and consider issues related to AID policy on International Agricultural Research Centers.

The meeting will convene from 1:00 p.m. to 5:00 p.m. on January 24, and 9:00 a.m. to 5:00 p.m. on January 25. The meeting will be held in the Holiday Inn, 1850 N. Fort Myer Drive, Rosslyn, Virginia. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. John Stovall, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Washington, D.C. 20523 or telephone him at (202) 632–8532.

Dated: January 3, 1983.

John Stovall,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Research and Development, Board for International Food and Agricultural Development.

[FR Doc. 83-373 Filed 1-5-83; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of; Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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 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.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier,

motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team Four at (202) 275–7669.

Volume No. OP4–096

Decided: December 30, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 103967 (Sub-33), filed December 22, 1982. Applicant: CARRIER VAN SERVICE, INC., 3041 Paseo, Kansas City, MO 64109. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *household goods,* between points in the U.S. (except ME, AK and HI).

MC 115557 (Sub-45), filed December 21, 1982. Applicant: CHARLES A. McCAULEY, 308 Leasure Way, New Bethlehem, PA 16242. Representative: Verne T. Mahood (same address as applicant), (814) 365–5811. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

MC 127306 (Sub-18), filed December 22, 1982. Applicant: M. W. McCURDY & CO., INC., 401 Nora's Lane, Houston, TX 77022. Representative: Daniel O. Hands, 104 S. Michigan Ave., Suite 410, Chicago, IL 60603, (312) 641–1944. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 154907 (Sub-7), filed December 14, 1982. Applicant: THE BUCK COMPANY, 631 W. Cherry St., Wayland, MI 49348. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. 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 Distributors Freight Brokers, Inc., of Wayland, MI.

MC 164177 filed December 21, 1982. Applicant: BRANDY SERVICE, INC., Rural Rt. 6, Box 116C, Shelbyville, IN 46176. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *food and related products,* between points in the IN, on the one hand, and, on the other, points in GA, IL, IN, KY, MI, MN, MO, OH, PA, TN, and WI.

MC 165326, filed December 21, 1982. Applicant: BUCKBOARD EXPRESS, INC., P.O. Box 527, Woodburn, OR 97071. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 271–2480. Transporting (1) *lumber and wood products,* (2) *food and related products,* and (3) *such commodities* as are dealt in or used by animal specialty businesses, between points in CA, OR, WA, on the one hand, and, on the other, points in AZ, ID, CO, IL, IN, MT, NM, NV, OH, UT, and WY.

For the following, please direct status calls to Team 5 (202) 275–7289.

Volume No. OP5–301

Decided: December 23, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF 638, filed December 13, 1982. Applicant: CARGO LINK EXPRESS, 4980 Amelia Earhart Drive, Salt Lake City, UT 84116. Representative: Eldon E. Bresee, 2881 East 3400 South, Salt Lake City, UT 84109, (801) 485–5154. As a freight forwarder, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, IL, IN, LA, MA,MD, MT, NV, NM, NJ, NY, OK, OR, TX, UT, VA, WA, and WY.

MC 56679 (Sub-183), filed December 16, 1982. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW, Atlanta, Ga 30315. Representative: B.K. McClain, 125 Milton Ave., SE, Atlanta, GA 30315, (404) 622–5383. 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 Kraft, Inc., of Glenview, IL.

MC 79658 (Sub-40), filed December 9, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), (812) 424–2222. Transporting (1) *household goods,* (2) *computer, data processing and sensitive electronic equipment,* and (3) *office furniture, machines, and equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with The BFGoodrich Company, of Akron, OH.

MC 133478 (Sub-31), filed December 9, 1982. Applicant: INTERSTATE TRANSPORT, INC., 8700 SW Elligsen RD, Suite 10, P.O. Box 23727, Wilsonville, OR 97070. Representative: Peter H. Glade, 1 SW Columbia, Suite 555, Portland, OR 97258, 503–227–1681. Transporting *building materials,* between points in the U.S. (except AK and HI).

MC 147949 (Sub-8), filed December 15, 1982. Applicant: ROEDER CARTAGE COMPANY, INCORPORATED, 1979 N. Dixie Hwy, Lima, OH 45801. Representative: James Duvall, 220 W. Brides St., P.O. Box 97, Dublin, OH 43017 (614) 889–2531. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 148199 (Sub-4), filed December 12, 1982. Applicant: T. G. AND J. C. GARLAND d.b.a. AQUARIAN LINES, RT. 1 Box 261,Van Alstyne, TX 75095. Representative: T. G. Garland (Same address as applicant) 214–482–6304 or 405–235–8608. Over regular routes, Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between Tulsa, OK and Amarillo,

TX over U.S. Hwy 66, serving all intermediate points.

MC 151018, filed November 29, 1982. Applicant: H. C. BERGER TRUCKING CO., INC., 210 Kingston Dr., Pittsburgh, PA 15235. Representative: Harry C. Berger III (Same address as applicant) (412) 823-3345. Transporting (1) *building materials*, and *machinery*, between points in the U.S., under continuing contract(s) with (a) Consolidated Enterprises, Inc., of Bethel Park, PA. and (b) Koolvent Aluminum Products, Inc., of Pittsburgh, PA. and (2) *malt beverages* and *malt beverage containers*, between points in the U.S., under continuing contract(s) with Alfred M. Lutheran Distributors, of Munhall, PA.

MC 154019, filed December 16, 1982. Applicant: MICHAEL P. DUNN d.b.a. MILLER TRANSPORTATION, 750 No. Madison St., Rockford, IL 60017. Representative: Martin J. Kennedy, 120 West Madison St., Suite 1306, Chicago, IL 60602 (312) 726-0375. Transporting (1) *rubber abd plastic products* under continuing contract(s) with The Goodyear Tire & Rubber Company of Akron, OH, and The Kelly-Springfield Tire Company of Cumberland, MD, and (2) *pulp, paper and related products*, under continuing contract(s) with Longview Fibre Corporation of Rockford, IL between points in the U.S.

MC 156899 (Sub-1), filed December 13, 1982. Applicant: CAROL DIXON, d.b.a. CAD BUILDING SUPPLIES, 9715 N. E. Prescott, Portland, OR 97220. Representative: Carol Dixon (same address as applicant) (503) 253-9813. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, ID, MT, NV, OR, and WA, on the one hand, and, on the other, points in AL, AR, IL, IN, KY, MI, MT, MS, NV, PA, TN, UT, and WI.

MC 158069 (Sub-1), filed November 22, 1982. Applicant: DUPRE TRANSPORT, INC., I-49 South, Opelousas, LA 70580. Representative: David J. Holpern, 3636 N. Causeway, Suite 100, Metairie, LA 70002 (504) 835-6705. Transporting *petroleum products*, between points in LA, on the one hand, and, on the other, points in MS and TX.

MC 160279 (Sub-6), filed December 14, 1982. Applicant: MBPXL TRANSPORTATION, INC., P.O. Box 2519, Wichita, KS 67201. Representative: James T. Ferguson (same address as applicant) (316) 262-2066.Transporting *equipment, parts, and materials used in the* manufacture, assembling and repair of automotive buses, between points in the U.S. (except AK and HI), under continuing contract(s) with Transportation Manufacturing Corporation and Romex, Inc. Both of Rosewell, NM.

MC 161189, filed December 9, 1982. Applicant: MALLET'S GATEWAY TERMINAL, INC., Chartier's Industrial Park, 2150 Rosewell Drive, Pittsburgh, PA 15205. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219 (412) 471-1800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, WV, MD, NY, and PA.

MC 163478, filed December 16, 1982. Applicant: MULTI-MODAL TRANSPORTS, INC., 3215 Tulane, Memphis, TN 38116. Representative: Warren A. Goff, 109 Madison Avenue, Memphis, TN 38103 (901) 526-2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163618, filed December 7, 1982. Applicant: SAFEWAY CAB COMPANY, INC., 812 Bland St., Bluefield, WV 24701. Representative: J. W. Barringer, P.O. Box 1459, Bluefield, WV 24701,.304-327-8193. Transporting *railroad workers*, between Mercer County, WV and Wise, Buchanan, Lee, Dickinson, Tazewell, Bland, and Roanoke Counties, VA, and McDowell, Wyoming, Mingo, and Logan Counties, WV, under continuing contract(s) with Norfolk And Western Railway Company (Bluefield Division) Bluefield, WV.

MC 164218, filed December 13, 1982. Applicant: CONTAINER MAINTENANCE SERVICE, INC., P.O. Box 24781, Houston, TX 77029. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706 (713) 898-8086. Transporting *general commodities* (except classes A and B explosives and household goods), between Galveston and Houston, TX, on the one hand, and, on the other, points in TX.

MC 165138, filed December 9, 1982. Applicant: MLB DELIVERY, INC., 833 Main St., Carmel, IN 46032. Representative: Harold C. Jolliff, 3242 Beech Dr., Columbus, IN 47201, 812-379-2556. Transporting *motor vehicle cargo and passenger vans*, between points in the U.S. (except AK and HI), under continuing contract(s) with Century Motor Coach, Inc., and Citation Motor Coach, Inc., both of Elkhart, IN.

MC 165169, filed December 13, 1982. Applicant: JOHN A. RUFF d.b.a. JOHN RUFF DISTRIBUTORS, 7300 Thorpe Rd., Belgrade, MT 59714. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101-1103 (605) 335-1777. Transporting *lumber and wood products*, between points in AR, CA, CO, ID, LA, MT, OK, OR, TX, WA, and WY, on the one hand, and, on the other, points in IA, IL, IN, KS, KY, MI, MN, MO, MT, ND, NE, SD, TN, WI, and WY.

MC 165189, filed December 14, 1982. Applicant: LARANETA TRUCKING CO., INC., 716 Tuna St., Terminal Island, CA 90731. Representative: L. Allan Songstad, Jr., 5190 Campus Drive, Newport Beach, CA 92660 (714) 752-8995. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CA under continuing contract(s) with Star Kist Foods, Inc., of Terminal Island, CA.

MC 165208, filed December 14, 1982. Applicant: LINDSEY TRANSPORT SERVICE, INC., 3465A Bayliss, Memphis, TN 38122. Representative: Thomas A. Stroud, 109 Madison Ave., Memphis, TN 38103 (901) 526-2900. Transporting *petroleum products* between points in Crittenden County, AR, on the one hand, and, on the other, points in TN.

Volume No. OP5-303

Decided: December 27, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 79658 (Sub-43), filed December 15, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant) (812) 424-2222. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with K Mart Corporation, of Troy, MI.

MC 165119, filed December 9, 1982. Applicant: DAVID J. MIZENIS, JOHN R. NOLAN and WILLIAM PETERSON, d.b.a. TIMBERLINE TRUCKING, 190 Timberland Rd. Clarksboro, NJ 08020. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, 215-561-1030. Transporting *farm products*, and *food and related products*, between Albany, and New York, NY, Philadelphia, PA, Wilmington, DE, Baltimore, MD, Norfolk, VA, and Charleston, SC, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, KY, TN, and MS.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-318 Filed 1-5-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice

In the matter of; Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These 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.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper *"under contract."*

Please direct status inquiries to Team Four at (202) 275–7669.

Volume No. OP4–097

Decided: December 30, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 58177 (Sub-9), filed December 21, 1982. Applicant: SOUTHERN COACH COMPANY, 1300 E. Pettigrew St., P.O. Box 11345, Durham, NC 27703. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers* , in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 158027 (Sub-1), filed December 22, 1982. Applicant: FRANKLIN CHARTER BUS, INC., 4115 Dorforth Dr., Fairfax, VA 22030. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th St., N.W., Washington, DC 20004, (202) 737–1030. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5-302

Decided: December 23, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 29839 (Sub-9), filed December 6, 1982. Applicant: EVERGREEN STAGE LINES, INC., P.O. Box 17306, Portland, OR 97217. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, 503–226–3755. Transporting *passengers*, in charter and special operations, between points in the U.S. (excluding HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 31558 (Sub-2), filed December 7, 1982. Applicant: McINTIRE TRANSPORTATION, INC., 24 Bennett Hwy., U.S. Route 1, Saugus, MA 01096. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205. Transporting *passengers*, in special or charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 34319 (Sub-13), filed December 13, 1982. Applicant: A.B.C. COACH LINES, INC., 316 W. Howard St., Muncie, IN 47305. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded special and charter transportation.

MC 52448 (Sub-1), filed December 16, 1982. Applicant: PARKLANE BUS COMPANY, INC., 50 Parkside Lane, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *passengers*, in charter operations, beginning and ending at New York, NY, and points in Bergen, Essex, Hudson, Middlesex, Passaic, and Union Counties, NJ, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 63838 (Sub-19), filed December 13, 1982. Applicant: BOLUS FREIGHT SYSTEMS, INC., 700 N. Keyser Ave., Scranton, PA 18508. Representative: Raymond Talipski, 121 S. Main St.,

Taylor, PA 18517, (717) 344–8030. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 123678 (Sub-1), filed December 13, 1982. Applicant: DEERFIELD-HIGHLAND PARK TRANSIT, INC., 1134 North Skokie Hwy, Route 41, P.O. Box 514, Gurnee, IL 60031. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *passengers*, in charter and special operations, beginning and ending at points in IL, IN, MI, and WI, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 141499 (Sub-2), filed December 15, 1982. Applicant: FLORIDA TRAILS, INC., d.b.a. ANNETT TRAILWAYS, P.O. Box 33, Sebring, FL 33870. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 145169 (Sub-1), filed December 14, 1982. Applicant: THIELEN BUS LINES, INC., d.b.a. THIELEN TOURS, 1191 S. Ramsey St., Redwood Falls, MN 56283. Representative: Andrew J. Carraway, 1600 Wilson Boulevard, Suite 1301, Arlington, VA 22209, (703) 522–0900. Transporting *passengers*, in charter and special operations, beginning and ending at points in MN, SD, ND, IA, and WI, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 162618, filed December 14, 1982. Applicant: LANCASTER TOURS, INC., P.O. Box 521, Lancaster, SC 29720. Representative: James K. Davis, P.O. Box 966, Lancaster, SC 29720, (803) 283–3386. Transporting *passengers*, in special and charter operations, beginning and ending at points in Cherokee, Chester, Chesterfield, Darlington, Fairfield, Florence, Kershaw, Lancaster, Newberry, Union, and York Counties, SC, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 163308, filed November 29, 1982. Applicant: G & T TRUCKING, Rt. 4, Box 385, Coushatta, LA 71019. Representative: J. Phillip Goode, 1212 Mid South Towers, Shreveport, LA 71161, (318) 221–1601. Transporting *general commodities* (except classes A and B explosives), between Coushatta, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164788, filed November 22, 1982. Applicant: SENIORS UNLIMITED, INC., 53 W. Huron, Pontiac, MI 48058. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165019, filed December 6, 1982. Applicant: TOM C. PRICE, Route 1, Box 47C, Rose, OK 74364. Representative: Tom C. Price (same address as above), (918) 868–2201. 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 165069, filed December 7, 1982. Applicant: B & B CHARTER SERVICES, INC., 3216 Valley Dale Dr., Atlanta, GA 30311. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE., Suite 520, Atlanta, GA 30326, 404–262–7855. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165108 filed December 9, 1982. Applicant: WESTMORELAND TOURS, INC., Box 110, Darragh, PA 15625. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165118, filed December 9, 1982. Applicant: JOHN WILLIAMS AND HARRIET WILLIAMS, d.b.a. H & D BROKERAGE, 2065 N. Temperance, Fresno, CA 93727. Representative: John Williams (same address as applicant), (209) 251–4790. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165158, filed December 13, 1982. Applicant: NATIONAL PIGGYBACK SERVICES, INC., 5545 Murray Ave., Memphis, TN 38117. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165198, filed December 14, 1982. Applicant: SHORTWAY SUBURBAN LINES, INC., 2121 West Chestnut St., Washington, PA 15301. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10173, (212) 755–9500. Transporting *passengers*, in charter and special operations, between points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of this filing to Team 5, Room 2414.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165228, filed December 16, 1982. Applicant: KENNETH J. VOGEL CHARTER SERVICE, R.D. #1, Box 41–A, Weatherby, PA 18255. Representative: Sander M. Bieber, 1730 Pennsylvania Ave., NW, Suite 1100, Washington, DC 20006, (202) 783–0200. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA and extending to points in CT, DE, ME, MD, MA, NH, NJ, NY, RI, TN, VT, VA, WV, and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP5–304.

Decided: December 27, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 36578 (Sub-18), filed December 7, 1982. Applicant: REEDER'S INC., Woodlawn Ave., Modena, PA 19358. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, 717–233–5731. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA and DE, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 138799 (Sub-2), filed December 7, 1982. Applicant: PENINSULA CHARTER LINES, INC., 160 Demeter St., East Palo Alto, CA 94303. Representative: Michael J. Demeter (same address as applicant), 415–322–4511. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–319 Filed 1–5–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30067]

Rail Carrier; Railroad Car Service Pooling Application; Filing and Proposed Special Rules of Procedure

December 29, 1982.

An application, as summarized below, has been filed by certain railroad companies under 49 U.S.C. 11342(a) for authority to enter into an agreement for the pooling of car service (pooling agreement) with respect to RBL cars (defined to be those cars designated by Association of American Railroads Car Type Code R106, R107, R206, R207, A140, A150, A240, A250, A340 or A350 in the Official Railway Equipment Register) and for prior approval of that agreement. The railroads listed as applicants are:

Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, MN 55101

Consolidated Rail Corporation, Six Penn Center Plaza, Philadelphia, PA 19104

Denver and Rio Grande Western Railroad Company, 1515 Arapahoe Street, Park Central Tower, Denver, CO 80217

Detroit, Toledo and Ironton Railroad Company, 131 West Lafayette Boulevard, Detroit, MI 48226

Grand Trunk Western Railroad Company, 131 West Lafayette Boulevard, Detroit, MI 48226

Illinois Central Gulf Railroad Company, 233 North Michigan Avenue, Chicago, IL 60601

Missouri Pacific Railroad Company, 210 North 13th Street, St. Louis, MO 63101

Southern Pacific Transportation Company, One Market Plaza, San Francisco, CA 94104

Western Pacific Railroad Company, 526 Mission Street, San Francisco, CA 94104

Applicants' representatives are: Basil Cole, Esq., Charles A. Spitulnik, Esq., 1730 Pennsylvania Avenue, N.W., Suite 1100, Washington, D.C. 20006, (202) 783–0200.

Description of the Transaction

The proposed pool consists of an arrangement allowing Fleet Management, Inc. (FMI), a wholly-owned subsidiary of Fruit Growers Express Company (FGE), to manage a fleet of RBL cars that have been contributed to the pool by the participating carriers. As manager of the pool, FMI will act as agent for those carriers for the purpose of directing the routing of the empty RBL cars assigned to the pool.

Applicants assert that the proposed transaction involves no pooling of earnings. Rather, the proposed pool will be operated as a commercial venture, with each railroad participant compensating FMI for its services based on actual reduction in empty car-miles. Through FMI's management of the fleet, the participants expect to decrease the empty mileage for RBL cars by the reloading of empty cars at points closer to the original point of unloading than is feasible under the current common practice of returning each empty to its owner road or assigned loading point.

Participation in the pool will not be limited to the railroaods which have joined in the filing of the application, but will be open to other United States railroads who become signatories to the pooling agreement and comply with its provisions. If the application is approved, applicants have requested that the Commission adopt an expedited procedure for approval of other railroads' participation.

A copy of the application is on file and can be examined in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. A copy of the application may also be requested from applicants.

In the opinion of applicants, the requested Commission action will not significantly affect either the quality of the human environment or energy consumption. Any protest may include a statement indicating the presence or absence of any impact of the requested Commission action on energy conservation, energy efficiency or the environment. If any such impacts are alleged, the statement shall be accompanied by supporting data indicating the nature and degree of the anticipated impact.

Evidence will be received through written verified statements in accordance with the following provisions: (a) Applicants' verified statements are those accompanying their application; (b) other verified statements in support of the application shall be due on January 26, 1983; (c) any protests and supporting verified statements shall be filed with the Commission by February 7, 1983, with a copy to be served on applicants counsel at the address stated above; (d) reply statements by all parties shall be due on January 26, 1983; and (e) no oral hearing is contemplated.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–313 Filed 1–5–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. MC 156]

Motor Carrier Operating Authority by Railroads and Rail Affiliates; Applications

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement.

SUMMARY: The Commission is eliminating the "special circumstances" doctrine to make it easier for railroads and rail affiliates to obtain unrestricted motor carrier authority. This action is mandated by changes in the transportation industry since the passage of the 1935 Motor Carrier Act and recent revisions to the Interstate Commerce Act reducing entry requirements for obtaining motor carrier authority, requiring less restricted motor carrier operations, and encouraging intermodal transportation and competition between and among rail and motor carriers.

EFFECTIVE DATE: This policy statement applies to motor carrier authority applications filed on or after January 6, 1983.

FOR FURTHER INFORMATION CONTACT:

Alan Greenbaum (202) 275–7322

or

Howell I. Sporn (202) 275–7691

ADDRESS: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact T. S. Infosystems, Inc., Room 2227, Washington, DC 20423, or call 289–4357 in the DC Metropolitan area or toll free (800) 424–5403.

SUPPLEMENTARY INFORMATION: The Commission has issued a final policy statement eliminating the "special circumstances" doctrine, a policy which required the restriction to incidental rail service of motor carrier authority issued to railroads or rail affiliates in licensing proceedings unless special circumstances were shown that unrestricted authority was required to fulfill a compelling public need for

service not being offered by independent motor carriers.

The doctrine dates back to the earliest days of the Commission's regulation of motor carriers. The underlying policy of restricting rail-affiliated motor carrier authority to incidental rail service grew out of the restrictive rail-motor merger section 213(a)(1) of the Interstate Commerce Act as amended by the Motor Carrier Act of 1935 [now 49 U.S.C. 11344(c)] and the national transportation policy's requirement to maintain the "inherent advantages of each mode of transportation." The aim was to prevent rail carrier domination of the growing motor carrier industry. The "special circumstances" doctrine itself was developed to blunt the restrictive interpretation of these legislative requirements in motor carrier licensing cases so as to authorize unrestricted motor carrier service, albeit motor carrier service performed by a railroad or rail affiliate, for which a compelling need was demonstrated.

The final policy statement finds that the reduced motor carrier entry requirements and strong emphasis on competition expressed in the 1980 Motor Carrier Act and Staggers Rail Act have eliminated the legislative underpinnings of the "special circumstances" doctrine. Specifically, the statement finds that the presumption of rail anti-competitiveness which underlies the "special circumstances" doctrine is inconsistent with the pro-competitive policies expressed in the passage of the Staggers Act and Motor Carrier Act. The statement concludes that rail carrier applications for motor carrier authority will no longer be treated differently from other motor carrier authority applications.

The index of subjects involved in this proceeding are: Motor carriers, Railroads, Intermodal transportation.

(49 U.S.C. 10101, 10101a, 10922, 10923, and 5 U.S.C. 553.)

Decided: December 17, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons and Gradison. Commissioner Andre, joined by Commissioner Sterrett, concurred with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Andre, joined by Commissioner Sterrett, concurring:

I concur in the issuance of this policy statement. It marks a long overdue change in the Commission's attitude toward intermodal licensing. The only reservation that I have is that the statement does not announce a change in intermodal acquisition policy. As it now stands the Commission has cleared the way for interested railroads to expand into general trucking. But the method of expansion has been restricted to new operations under new authorities. The alternative of expansion through the acquisition of an existing trucking company remains largely foreclosed. The foreclosure is not based on any judgment about the relative impact on the public interest of new entry as opposed to acquisition. As far as I can discern, the foreclosure is caused by the fact that acquisitions are governed by a specific section of the Interstate Commerce Act. Because additional legal issues are raised, acquisitions are to be treated separately at some future time.

I think the separation of these investment alternatives is unwise. The Commission and the courts have long treated licensing and acquisition policies as if they were necessarily related. Continued reconciliation of these policies is required to avoid the charge that the Commission has arbitrarily reversed itself. Moreover, the choice between one type of entry and the next is not one that the Commission should make unless commanded to do so by law. There is no way of predicting the extent of commercial interest in integrated intermodal operation, but to the extent that there is some pent-up demand it has now been channeled into the formation of new operations which must compete with existing firms to gain market share. Maybe that is all to the good, but in the current slumping market there is the equally plausible argument that buying a struggling firm will be less expensive and no less effective. The latter course may also be less disruptive of existing labor and investor relationships. But in any case it is a judgment that the market is better suited to make correctly, since the Commission's deliberations center on the niceties of the law rather than the dictates of commercial efficiency.

Of course, if the Interstate Commerce Act forbids expansion through acquisition, then the best course is to proceed in the licensing area, as we have done, and hope for approval from the appellate courts. The law does not require that result however, or at least I do not read it to do so. A more detailed presentation will, I hope, make it very clear why a change in both licensing and acquisition policy is the natural outcome of recent commercial and legislative developments.

A railroad cannot lawfully acquire a regulated motor carrier without receiving approval from this Commission. In addition to general standards, the Interstate Commerce Act contains a provision which applies specifically to acquisitions of a motor carrier by a rail carrier.

When a rail carrier, or a person controlled by or affiliated with a rail carrier, is an applicant and the transaction involves a motor carrier, the Commission may approve and authorize the transaction only if it finds that the transaction is consistent with the public interest, will enable the rail carrier to use motor carrier transportation to public advantage in its operations, and will not unreasonably restrain competition.[1]

This provision was designed to give the Commission the power to protect the motor carrier industry from railroad domination. It was considered at the time to be

* * * important to the welfare and progress of the motor carrier industry that the acquisition of control of the carriers be regulated by the Commission so that the control * * * not get into the hands of other competing forms of transportation, who might use the control as a means *to strangle, curtail, or hinder progress in highway transportation for the benefit of other competing transportation.*[2] (Emphasis supplied.)

Consistent with the legislature's initial views, the Commission has normally declined to approve the acquisition of a motor carrier by a railroad unless it is shown that the motor carrier service will be either "auxiliary to or supplemental of" the acquiring carrier's rail service.[3] The Commission believed that it would not be conducive to

* * * future healthful competition between rail and truck service * * * to give the railroads free opportunity to go into the kind of truck service which is strictly competitive * * * rather than auxiliary to their rail services * * * (because) * * * the financial and soliciting resources of the railroads could easily be so used in this field that the development of independent service would be greatly hampered and restricted * * *[4]

The appellate courts ultimately declared that certain amendments passed in 1940 reflected Congressional knowledge of the Commission's restrictive interpretation of rail-motor entry policy and amounted to legislative

[1] The provision appeared first as Section 213 of the Motor Carrier Act of 1935; the Transportation Act of 1940 reincorporated the provision as Section 5(2)(b); and, as a result of the codification of the Interstate Commerce Act in 1978, Section 5(2)(b) became Section 11344. In the 1935 version rail carriers had to demonstrate that their applications would "promote the public interest"; this burden was relaxed to "consistent with the public interest" in the 1940 Act. The provision is now found in 49 U.S.C. 11344(c).

[2] 79 Congressional Record 12685, July 31, 1935.

[3] See *Pennsylvania Truck Lines, Inc.—Control—Barker M. Frt.*, 1 M.C.C. 101, 111 (1936) and 5 M.C.C. 9, 11 (1939); *Santa Fe Transp. Co.—Purchase—Spears*, 39 M.C.C. 59, 69.

[4] *Pennsylvania Truck Lines, Inc.—Control—Barker, supra*, 1 M.C.C. at 111–112.

approval of the Commission's course. The linchpin of this statutory argument for a protective approach to intermodal competition became the statement in 1940 National Transportation Policy to the effect that the Commission should regulate to preserve the inherent advantages of the differing modes.

Amendments to the Interstate Commerce Act have progressively reflected the profound changes in commercial circumstances that have taken place in the years since 1940. In particular, Congress has eliminated the intermodal protectionism that was once considered a near universal requirement of the National Transportation Policy. As the full Commission's statement notes, the 1976 Railroad Revitalization and Regulatory Reform Act altered the ICC ratemaking framework to allow sensible price reductions by railroads. Before enactment of the 4R Act, rail rates were typically held far above variable costs to protect what were then thought to be the inherent advantages of competing modes.[5] Congress reversed this approach in 1976 by precluding the Commission from finding a railroad rate unreasonable if it covers the variable cost of carrying the traffic. No otherwise rational rate of a railroad can now be denied simply to protect the markets of another mode.[6]

In effect the 4R Act eliminated the "inherent advantages" argument from railroad ratemaking. This development is not only a sensible one, but one with important implications for entry and acquisition policy as well. The Courts and the Commission have consistently emphasized that the Act must be read as a whole, meaning that some consistency should be sought in policy interpretation. Therefore, if the restraints have been taken off price competition, there is at least good reason to suspect that entry policy should not reflect a protectionist cast.

Whatever doubts the foregoing analysis might have met in 1976, the passage of the Motor Carrier Act and the Staggers Rail Act in 1980 confirm the fact that entry protection is no longer the hallmark of public transportation policy. The National Transportation Policy has been twice amended to elevate competition to the role of principal regulator of price and entry behavior. Specific enactments shift the burden of persuasion to those who seek to impose anti-competitive restrictions on motor licenses, and still other amendments promote intermodal operations. Most of the pertinent sections of the new laws have been examined in the Commission's principal statement and there is no need to dwell on them further. The crucial point is that reference to the preservation of inherent modal advantages in the National Transportation Policy has become far too slim a reed to support a prohibitive entry regime. It is too slim because the overall policy direction of the Interstate Commerce Act has changed markedly, and because technological advances in internal combustion, tire manufacture, road building and the like have been, in retrospect, more than sufficient guarantors of the real advantages of motor freight.

The problem now is whether the more specific provision in section 11344(c) commands a split in entry policy, establishing a statutory perference for new licenses over acquisition of existing operations. The Commission has announced its intention to look into the matter, but the announcement is problematical. It gives industry little information as to timing and even less indication as to how the Commission presently views rail-motor acquisitions. What is worse is the possibility that the pendency, or in this case the potential pendency, of a general investigation may foreclose a decision on some application that surfaces in the interim. Industry could be excused if it abandoned the planning of otherwise rational acquisitions because of the government's bias in favor of new licenses—a bias that is the creature of inaction.

To attempt to avoid this interference with investment planning I would like to offer some preliminary thoughts on the proper interpretation of 11344(c) in the post Staggers Act era. Certainly I cannot speak for the Commission, and even for myself I would like to reserve some room for reconsideration when a case in controversy comes up. Nevertheless, since I believe that 11344(c) is open to a pro-competitive interpretation it is important to make these observations now.

Section 11344(c) requires that rail-related motor acquisitions be examined (beyond the general requirements applicable to all acquisition applications) on the issues of whether the railroad can use the motor carrier to public advantage in its operations, and whether the acquisition threatens an unreasonable restraint of trade. The first issue seems to me straightforward up to the point of the phrase "in its operations". Clearly intermodal integration meets the criterion of public advantage. At least Congress thinks so, and has repeatedly so legislated. But would a general motor freight operation that never, or only occasionally exchanged traffic with a rail parent be used to public advantage "in its operations", meaning the operations of the railroad? One can see scholastics lining up to defend the proposition that "in its operations" requires a close physical connection with the running of trains. Admittedly it is just such an interpretation that has governed for decades.[7] But it is not the only satisfactory interpretation, nor even the interpretation that immediately commends itself to someone coming to the subject for the first time.

Obviously the issue is what are "its operations?" In an environment that is increasingly populated by integrated transportation companies the answer would seem to be "in the marketing and delivery of transportation service". Consider the fact that the Staggers Act gave the ICC the explicit authority to exempt intermodel operations provided by rail carriers.[8] The obvious implication is that Congress see railroad operations as increasingly integrated between truck and rail. Even more to the point is the litigation challenging the Commission's exercise of this exemption authority. The Commission's exemption was formulated so relief from regulation reached not only rail transportation, but transportation provided by trucks owned by the railroads. The trucking industry challenged this extension on literal grounds, arguing that under the statute the transportation had to be "provided by a rail carrier" and truck carriage could not qualify. The reviewing court affirmed the Commission's broader interpretation, stating that the truck portion of intermodal service is transportation provided by a rail carrier, the use of trucks notwithstanding.[9] While there is some roughness in the analogy, it is at least fair to say that the phrase "in its operations" is, as is the phrase "provided by a rail carrier," open to an interpretation that does not bind the freight to trains.[10]

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[5] See, *American Commercial Lines, Inc., v. Louisville & Nashville R. Co.*, 392 U.S. 571 (1968); *Interstate Commerce Comm. v. New York, New Haven and Hartford R. Co.*, 372 U.S. 744 (1963).

[6] See, Pub. L. 94-210, 94th Cong. 2nd Sess., Sections 202(b) and 205.

[7] It is not altogether clear whether this interpretation has been applied unfailingly. Cases such as *Burlington Truck Lines, Inc.—Purchase—Pire*, 85 M.C.C. 363 (1960) indicate that it has not.

[8] Pub. L. 96-488, section 213 amending 49 U.S.C. 10505.

[9] *American Trucking Associations, Inc.* v. *ICC*, 655 F. 2nd 1115 (5th Cir. 1981).

[10] Before leaving the Staggers exemption section another point is worth addressing by way of anticipation. Admittedly the provision prohibits the use of the exemption power to authorize intermodal ownership that would be unlawful under the terms of 11344(c). That prohibition does not, however,

Adopting this broader meaning will not result in reading "in its operations" out of the Act. There is no question that the Interstate Commerce Act does require a rail carrier to make beneficial use of a motor carrier if it buys one. This is not a surprising requirement since at the time of the 1935 enactment there was widespread concern that the railroads were inclined to use any available tactic to protect their markets. Buying up a competitor and selling off its assets piecemeal is, in hindsight, no more unlikely than others among the predatory strategies ascribed to railroads. Reading section 11344(c) to prohibit this kind of conduct preserves its prophylactic purpose, but avoids ascribing to it such scope that it prevents useful and efficient integration between companies that have many overlapping marketing, operational and administrative functions. If such a reading departs from precedent, it is an evolutionary departure which can be supported by many of the same legislative developments that lead to the conclusion that rail-motor licensing policy should be made less restrictive.

As to the requirement that the Commission avoid restraints of trade by denying such applications as threaten them, it might be enough to say that such is Commission policy regarding all motor carrier acquisitions cases.[11] Furthermore, since acquisitions are considered on a case by case basis, an adequate record can be developed to determine if any special anti-competitive potential exists. In short, the admonition to avoid restraints of trade, like the requirement of use in operations, can be given a meaningful interpretation without imposing on it the overwhelming restrictiveness that current policy implies.

These remarks have been offered in the hope that they will advance the Commission and the industry to a more rapid conclusion on the issue of rail-motor acquisitions. They are not intended to diminish the importance of the licensing policy statement on which there is unanimous accord. But the Commission's jurisdiction runs beyond licensing to mergers, consolidations, even exist from the marketplace. It is important to keep a coordinated view of these responsibilities to avoid the creation of distorted investment incentives. Market entry through the acquisition of an existing firm can be the fastest and most effective way of bringing new energy and new ideas into the marketplace. In some instances it may be the only cost-effective way.

I would offer one final observation. I am in complete agreement with the Commission's decision to permit the restriction removal procedures to be used by rail-affiliated motor carriers. Nevertheless, from an agency standpoint, the availability of restriction removal is completely severable from the issue of new licensing through the standard application process. No harm can come from proceeding with the consideration of new applications even if the availability of the restriction removal process cannot be guaranteed.

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have any substantive impact on the meaning of 11344(c), or reflect a Congressional commitment to any single interpretation of that section—particularly an unnecessarily restrictionist interpretation that would run counter to the underlying purposes of the new law. As the House stated "This (limitation on the exemption provision) should not, however, be construed as a prohibition of the Commission's authority, to approve intermodal ownership consistent with Section 11344." See, *Comm. on Interstate and Foreign Commerce, Report on the Rail Act of 1980*, H.R. 96-1035, at 60, 96th Cong. 2nd Sess. (1980).

[11] See, *Red Ball Motor Freight, Inc.—Control and Merger—Spector Industries, Inc.*, 127 M.C.C. 737 (1981).

Motor Carriers; Permanent Authority Decisions; Decision-Notice

90-Day Intrastate Motor Common Carriers of Passengers.

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922(c)(2)(E).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated 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 25 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 30 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.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries to Team 3, (202) 275-5223.

Volume No. OP3-67

Decided: December 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 1515 (Sub-322), filed December 14, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower—Station 1510, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant), (602) 248-5018. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in No. MC-1515 (Sub-

Nos. 7, 71, 252, 269, 306, and 310) and in No. MC-1501 (Sub-Nos. 92, 97, 167, 207, and 236) acquired in No. MC-F-8531, as follows: (1) No. MC-1515 (Sub-252), over all of the routes which traverse New York, (2) No. MC-1515 (Sub-No. 269), over all of the routes which traverse New York (3) No. MC-1515 (Sub-No. 306), over all of the routes which traverse Colorado and Wyoming, (4) No. MC-1515 (Sub-No. 310), over all of the routes which traverse Indiana, (5) No. MC-1501 (Sub-No. 92), over all of the routes which traverse DE, IL, IN, KY, MD, MI, MO, NJ, NY, OH, PA and VA, (6) No. MC-1501 (Sub-No. 167), over all of the routes which traverse CT, NJ, and NY, (7) No. MC-1501 (Sub-No. 207) over all of the routes which traverse Virginia and Maryland, (8) No. MC-1515 (Sub-No. 7), in part, all of the routes on Third Revised Sheet No. 56 which traverse Idaho, (9) No. MC-1515 (Sub-No. 71), in part, (a) page 5, between Denver and the Colorado-New Mexico State Line, and(b) page 7, between Denver and the Colorado-Nebraska State Line northeast of Sterling, (10) No. MC-1501 (Sub-No. 97), in part, between Paris, IL and Evansville, IN, and (11) No. MC-1501 (Sub-No. 236), in part, (a) between New York, NY, and junction Interstate Hwy 287 and Interchange No. 13 of Interstate Hwy 95 at Port Chester, NY, and (b) between junction Interchange No. 8 of Interstate Hwy 87 and Interstate Hwy 287, and Suffern, NY.

Please direct status inquiries to Team 5 at 202-275-7289.

Volume No. OP5-305

Decided: December 23, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 59238 (Sub-70), filed December 8, 1982. Applicant: VIRGINIA STAGE LINES, INC., 1200 I St., NW, Washington, DC 20005. Representative: George W. Hanthorn, 1500 Jackson St., Dallas, TX 75201, (214) 655-7937. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in No. MC-59238 (Sub-Nos. 57, 62, 63, and 66), as follows: (1) No. MC-59238 (Sub 57), over all of the routes in their entirety generally between Washington, DC, and Richmond, VA; (2) No. MC-59238 (Sub. 62), in part, between Waynesboro, VA, and Roanoke, VA, to provide intrastate service between junction Interstate Hwys 340 and 81 and Roanoke; (3) No. MC-50238 (Sub 63), in part, between Richmond, VA, and Staunton, VA, to provide intrastate service between junction Interstate Hwys 64 and 81 and Statunton; and (4) No. MC-59238 (Sub 66), over all of the routes in their entirety which extend between junction Interstate Hwys 64 and 81 and junction Interstate Hwy 81 and U.S. Hwy 340.

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[Volume No. 320]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: December 29, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 29 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

MC 381 (Sub 30)X, filed November 23, 1982. Applicant: GENOVA EXPRESS LINES, INC., 484 Clayton Road, (P.O. Box 386), Williamstown, NJ 08094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Lead and Subs 5, 8, 9, 10, 14F, 15F, 16, 18F and 20F: (1) broaden (a) glassware and plastic articles to "clay, concrete, glass or stone products and rubber and plastic products" and "materials, equipment, and supplies used, or useful, in the manufacture and sale of glassware and plastic articles (except commodities in bulk and limestone)" to "materials, equipment, and supplies used in the manufacture, sale, and/or distribution of clay, concrete, glass, or stone products and rubber and plastic products in Sub 5; (b) bakery supplies, canned goods, packed fruits, canned and processed foods, and bakery products to "food and related products" in Subs 9 and 16; (c) general commodities, with exceptions to "general commodities (except classes A and B explosives, household goods, and commodities in bulk)" in the lead and Sub 16; (d) non ferrous metals, powdered iron and tin cans to "metal products" in Subs 10, 15F, 16 and 18F and "materials, equipment and supplies used in the manufacture and distribution of non-ferrous metals to "materials, equipment, and supplies used in the manufacture, sale, and distribution of metal products" in Sub 18F; (e) baled textile waste to "waste or scrap materials not identified by producing industry" in Sub 14; (f) paper and paper products, cartons, and packing materials to "pulp, paper and related products" in Subs 14F and 16; (g) lime and limestone and glass bottles to "clay, concrete, glass or stone products" in Sub 16; and (h) batteries to "electrical machinery" and "equipment, materials, and supplies used in the manufacture and sale of batteries" to "materials, equipment, and supplies used in the manufacture, sale, and distribution of electrical machinery" in Sub 20F; (2) eliminate the facilities restrictions in Subs 5, 9, 10, 14F, 18F and 20F; (3) change one-way to radial authority in Subs 10, 14F, 15F, and 16; (4) broaden (a) off-route points of Almonesson and Sicklerville, NJ to Gloucester and Camden Counties, NJ in the lead; (b) within 5 miles of Hammonton and Hammonton, NJ to Atlantic, Camden and Gloucester Counties, NJ in the lead and Sub-16; (c) Williamstown to Gloucester County, NJ in Sub 5; (d) Philadelphia, PA to Montgomery, Philadelphia, Bucks, Chester and Delaware Counties, PA, Salem, Gloucester, Burlington, Camden, Mercer, Hunterdon and Monmouth Counties, NJ, and New Castle County, DE; in Subs 8 and 16; (e) King of Prussia, PA to Montgomery County, PA, and Tampa and Miami, FL to Hillsborough and Dade Counties, FL in Sub 9; (f) Columbia to Lancaster County, PA in Subs 10 and 18F; (g) Wellford, to Spartanburg County, SC, Dover to Kent County, DE, Landisville to Atlantic and Cumberland Counties, NJ, Chester, PA to Philadelphia and Delaware Counties, PA and New Castle County, DE; and Rogers, AR to Benton County, AR in Sub 14F; (h) Riverton, NJ to Burlington and Camden Counties, NJ and Philadelphia County, PA, and Coral Springs, FL to

Broward County, FL in Sub 15F; (i) Norristown, Plymouth Meeting, Malvern and Cedar Hollow, PA to Montgomery, Chester, Delaware, Philadelphia and Bucks Counties, PA, and Bridgeton and Cedarville, NJ to Cumberland County, NJ in Sub 16; and (j) Sumter, SC to Sumter County, SC in Sub 20F; and (5) remove the restriction (a) originating at and destined to Subs 5, 9, 10, 15F, 16, 18F, and 20F; (b) "except malt beverage containers" in Sub 5; (c) except in dump vehicles in Sub 10; and (d) except commodities in bulk, in tank and dump vehicles in Sub 18F.

MC 10115 (Sub-No. 15)X, Filed December 3, 1982. Applicant: C. D. ZIMMERMAN, INC., R. D. #3, P.O. Box 293, Mifflintown, PA 17059. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Lead and Subs 9, 10F and 11F: (1) Broaden animal and poultry feed, and feed to "food and related products" in the lead; animal and poultry equipment, hand garden sprayers and hand dusters, and scales and signaling devices to "machinery" in the lead; germicides, fungicides, insecticides, disinfectants, herbicides, fertilizer and weed-killing compound to "chemicals and related products" in the lead; hay, straw, and agricultural commodities to "farm products" in the lead; lumber to "lumber and wood products" in the lead; radiators and boilers and parts thereof to "metal products" in the lead; refractory products, firebrick, fireclay, materials and supplies used in the installation of refactory products, when shipped in mixed loads with refractory products, clay, and refractories to "clay, concrete, glass or stone products" in the lead and Subs 9, 10F and 11F; and crude clay to "ores and minerals" in the lead; (2) eliminate the precisely located facility limitations in Subs 10F and 11F; (3) broaden to: lead, New Castle County, DE (Wilmington, DE and points within 1 of thereof); Bucks and Montgomery Counties, PA (Belfry, PA and points within 10 miles of Belfry); Baltimore, MD and Anne Arundel County, MD (Baltimore and points within 5 miles thereof); Camden County, NJ (Camden); Mercer County, NJ (Trenton); Middlesex County, NJ (Carteret); Bucks County, PA (Quakertown); Bucks, Lehigh and Montgomety Counties, PA (Quakertown and points within 15 miles of Quakertown); Caroline County, MD (Denton); Kent County, DE (Harrington); Montgomery County, PA (Skippack), Montgomery and Chester Counties, PA (Fairview Village and points within 5 miles of Fairview Village); Armstrong County, PA (Templeton); Fayette County, PA (Hayes); Clinton County, PA (Lock Haven); Blair County, PA (Claysburg and Sproul); Huntingdon County, PA (Mount Union); Elk County, PA (St. Marys); Westmoreland County, PA (Salina); Centre, Elk, Jefferson and Clearfield Counties, PA (Clearfield and points within 25 miles of Clearfield); Somerset County, NJ (Flagtown); Sub 9, Huntingdon County, PA (Mt. Union) Sub 10F, Trumbull County, OH (Warren); Sub 11F, Portage County, OH (Windham): Scioto County, OH (Portsmouth): Cecil County, MD (Leslie); (4) change one-way to radial authority; and (5) remove the restriction (a) in dump trailers in the lead, and (b) against transportation of traffic moving to or from Canada in Sub 10F.

MC 29647 (Sub-51)X, filed December 14, 1982. Applicant: CHARLTON BROS. TRANSPORTATION COMPANY, INC., P.O. Box 2097, Hagerstown, MD 21740. Representative: Edward J. Donohue (address same as applicant). Lead and Subs 11, 12, 15, 16, 17, 21, 24, 26, 29, 30, 31, 32, 37, 40, 41, 42, 46, 47, 48, and 49, (1) broaden to (a) "general commodities (except classes A and B explosives and household goods)", and remove exceptions such as commodities of unusual value, commodities in bulk, those requiring special equipment, alcoholic beverages, film, livestock, coin or currency, coal, sand, crushed stone and lime, bullion, and loose goods requiring special equipment, (lead and Subs 11, 12, 15, 16, 17, 29, 37, 42, 46, 47, and 49); (b) "clay, concrete, glass or stone products" from fire brick, fire clay, and high temperature bonding mortar, and plastic firebrick (Subs 21 and 24), (c) "food and related products" from edible vegetable oils, in bulk, in tank vehicles, (Sub 26); (d) "chemicals and related products" from skin creams, skin lotions, suntan preparations, cosmetics, antiseptic creams, shaving creams, shaving products, and other skin preparations (Sub 30), and from salt cake, in bulk (Sub 41); (e) "petroleum, natural gas and their products" from petroleum (except petro acids. . . and asphalt products) in bulk, in tank vehicles (Subs 31 and 32); (f) "lumber and wood products" from sawdust and wood chips, in bulk (Sub 40). (2) change one-way to two-way authority (lead, part (E), regular route), and authorize service to all intermediate points (lead and Sub 16, regular route). (3) change one-way to radial authority (Subs 21, 24, 26, 31, 32, 40 and 41, irregular routes). (4) remove facilities limitations, and expand cities to counties, irregular routes (a) Keyser, WV (Mineral County), Hancock, MD (Washington County), Cumberland, MD (Allegany County), (lead); (b) Jennings, MD (Garrett County) (Sub 21 and 24); (c) Chester, Columbia, Fairless, Manheim, Morrisville, Phoenixville, and Royersford, PA (Delaware, Lancaster, Bucks, Chester, and Montgomery Counties), Claymont and Wilmington, DE (New Castle County), (Sub 21); (d) Birdsboro, Blue Bell, Easton, Littletown and Marietta, PA (Berks, Montgomery, Northampton, Adams, and Lancaster Counties), Delaware City, DE (New Castle County), Phillipsburg and Roebling, NJ (Warren and Burlington Counties), (Sub 24); (e) Berlin, PA (Somerset County), (Sub-26); (f) Newington, VA (Fairfax County), (Sub 32); (g) Martinsburg, WV (Berkeley County), Williamsburg and Tyrone, PA (Blair County), (Sub 40); (h) Front Royal, VA (Warren County), Luke, MD (Allegany Countly), (Sub 41); (i) Newark, NJ (Essex County), Elizabeth, NJ (Union County). (5) expand off-route points to counties and remove facilities limitations, regular routes (a) Luke, Bloomington, and Vale Summit, MD (Allegany and Garrett Counties), (lead, part (A)); (b) Boyce and Millwood, VA (Clarke County, Leetown and Gerrardstown, WV (Jefferson and Berkeley Counties), Big Pool, Big Springs, Fort Frederick, and Security, MD (Washington County), Millville, WV (Jefferson County), Brunswick, Mt. Airy, St. James School, Sharpsburg, Keedysville, Boonsboro, and Ringgold, MD (Frederick, Carroll, and Washington Counties), Fishers Hill and Broadway, VA (Shenadoah and Rockingham Counties), Scotland, Mt. Holly Springs, and Mechanicsburg, PA (Franklin and Cumberland Counties), Waltersville, Roxbury, Security, and Williamsport, MD (Frederick and Washington Counties), Berkeley Springs, WV (Morgan County), Waynesboro, PA (Franklin County), Martinsburg, WV (Berkeley County), (lead, part (E)); (b) Middleway, WV (Jefferson and Berkeley Counties), (Sub 15); (c) Cockeysville, MD (Baltimore County), (Sub 30); (d) Fort George G. Meade, Annapolis, Jessup, and Bowie, MD (Anne Arundel, Prince Georges, and Howard Counties), (Sub 37); (e) Havre De Grace, MD (Harford County), (Sub 46). (6) remove the following restrictions: (a) joinder only (lead); (b) limiting service to the transportation of traffic moving from, to, or through specified points in Maryland, West Virginia, Pennsylvania and New Jersey (lead, parts (B), (C), and (D); (c) restrictions based on truckload or less than truckload lots, and truckload lots only (lead, part (E); (d) ex-rail, water or air (Subs 47 and 49).

MC 30067 (Sub-No. 14)X, filed November 18, 1982. Applicant: SOUTH BRANCH MOTOR FREIGHT, INC., P.O.

Box 287, Harrisonburg, VA 22801. Representative: Chester A. Zyblut, 366 Executive Building, 1030–15th St., NW., Washington, DC 20005 Lead and Subs 9 and 13F certificates: (1) broaden commodities in (a) lead certificate to: lumber and wood products (pulpwood, lumber, veneer products, rough lumber, dressed lumber, logs, and lumber); coal and coal products (coal); farm products and textile mill products (livestock and wool, and live poultry and wood); machinery and food and related products (light machinery and confectionery); farm products (livestock); transportation equipment, machinery, lumber and wood products, metal products, clay, concrete, glass or stone products, and rubber and plastic products (auto parts, agricultural machinery parts, agricultural implements parts, oil drums, and toilet seats); food and related products, farm products, lumber and wood products, rubber or plastic products, pulp, paper and related products, metal products (livestock, apples, empty drums and barrels, and tires); food and related products (coffee); clay, concrete, glass or stone products (brick); (b) Sub 13F, to: lumber and wood products, metal products, and clay, concrete, glass or stone products (poles, posts, piling, lumber, cross ties, and mine ties); and in (c) lead and Sub 9, remove the following exceptions from the general commodities authority: those of unusual value, commodities requiring special equipment, those injurious or contaminating to other lading, and those requiring tank truck or refrigerated equipment; (2) lead certificate, with respect to regular-route authority, (a) authorize service at all intermediate points, (b) change one-way authority to two-way, (c) eliminate the restrictions "for pick up or delivery only," and (d) broaden off-route points to: Grant, Hardy and Pendleton Counties, WV, and Rockingham and Shenandoah Counties, VA (points within 15 miles of Mathias, WV); Allegany and Garrett Counties, MD, and Mineral County, WV (points within 10 miles of Luke, MD); Rockingham County, VA (Timberville); and Hampshire and Mineral Counties, WV (Romney); Highland County, VA (those in Highland County on and north of U.S. Hwy 250); (3) broaden irregular-route points to countywide, and change one-way authority to radial: (a) lead certificate, to Hampshire, Mineral, Tucker, Grant and Randolph Counties, WV (Romney, Davis, Parsons, Gormania, and Elkins); Allegheny, Washington and Westmoreland Counties, PA (Pittsburgh); Garrett County, MD, and Somerset County, PA (Grantsville, MD); Blair, Lancaster, Somerset and York Counties, PA (Lancaster, York, and Columbia and points within 10 miles, Altoona, and Meyersdale); Allegany County, MD (Cumberland and Barton); Page, Rappahannock, Rockingham and Shenandoah Counties, VA (Timberville and Woodstock); Hardy County, WV (Moorefield); Hardy and Grant Counties, WV (Petersburg and Fisher); York County, PA (Red Lion and York); Carroll County, MD (Westminster); Iredell, Caldwell, Wilkes, Surry, McDowell, Davidson, Burke, Catawba, Forsyth, Guilford, Randolph and Yadkin, Counties, NC (Statesville, Lenoir, Wildesboro, North Wilkesboro, Mt. Airy, Marion, Thomasville, Hickory, Morganton, Drexel, High Point, and Elkin); Henry, Smyth and Pulaski Counties, VA (Bassett, Marion, and Pulaski); Bucks, Chester, Delaware, Montgomery, Philadelphia, Lehigh, Northampton, Berks, York and Centre Counties, PA, New Castle County, DE, and Burlington, Camden, Gloucester and Salem Counties, NJ (Philadelphia, Lester, Bethlehem, Allentown, Glen Rock, and Millheim, PA and Camden, NJ) Allegany and Garrett Counties, MD, and Mineral County, WV (Luke, MD); Washington County, MD (Hagerstown); Berkeley County, WV (Martinsburg); Loudon County, VA, and Montgomery County, MD (Leesburg, VA); Blair and Franklin Counties, PA (Altoona, Tyrone, and Mercersburg); (b) Sub 13F, Hampshire and Mineral Counties, WV, and Allegany County, MD (facilities at Green Spring, WV).

[FR Doc. 83-317 Filed 1-5-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 82-35]

Charles J. Gartland, R. Ph.; Hearing

Notice is hereby given that on October 29, 1982, the Drug Enforcement Administration, Department of Justice, issued to Charles J. Gartland, R. Ph., d.b.a. Manoa Pharmacy, Havertown, Pennsylvania, an Order To Show Cause as to why the Drug Enforcement Administration should not revoke the DEA Certificate of Registration AM7004613 issued to Manoa Pharmacy under 21 U.S.C. 823.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Thursday, January 13, 1983, in Courtroom 3–B Room, 309, U.S. Claims Court, 717 Madison Place, NW., Washington, D.C.

Dated: December 30, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-370 Filed 1-5-83; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a), of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 18, 1982, Abbott Laboratories, 14th and Sheridan Road Attention: Customer Service D–345, North Chicago, Illinois 60064, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Pentobarbital (2270).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than February 7, 1983.

Dated: December 22, 1982.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-371 Filed 1-5-83; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 9, 1982, Pharmaceuticals Division, Ciba-Geigy Corporation, 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II

controlled substance Phenylacetone (8501).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than February 7, 1983.

Dated: December 20, 1982.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-372 Filed 1-5-83; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Executive Committee; Meeting

Correction

In FR Doc. 82-34477 appearing on page 57384 in the issue of Thursday December 23, 1982, in the sixth line of the document, the meeting date given as "January 12, 1983" should have been "January 21, 1983".

BILLING CODE 1505-01-M

Federal Highway Administration

Supplemental Environmental Impact Statement and Section 4(f) Evaluation: Delaware and Montgomery Counties, Pennsylvania

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Supplemental Environmental Impact Statement and Section 4(f) Evaluation will be prepared for a proposed highway project in the Counties of Delaware and Montgomery, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John R. Krause, Division Environmental Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108, Telephone: (717) 782-2276, or Robert L. Rowland, P.E., District Engineer, Pennsylvania Department of Transportation, 200 Radnor-Chester Road, St. Davids, Pennsylvania 19087, Telephone: (215) 687-1600.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation, will be preparing a Supplemental Environmental Impact Statement (EIS) and a Section 4(f) Evaluation on a proposal to construct a portion of the Mid-County Expressway (I-476) between the Schuylkill Expressway (I-76) on the north and the Delaware Expressway (I-95) on the south. The total length of limited access divided highway involved is 16.9 miles. Completion of the project will eliminate congestion and delay on the existing local highway system and adjacent arterial streets as well as provide better north-south access for the surrounding region. The project has been under consideration for many years and several corridors and alignments have previously been studied. A Final EIS/4(f) for this segment of I-476 was approved on August 8, 1980, and a Record of Decision was issued on March 31, 1981. A U.S. District Court Order on August 30, 1982, required a Supplemental EIS and new Section 4(f) Evaluation be processed for this project.

In the accompanying opinion to the Court Order, it was found that information which was developed by a Task Force assigned to downscope the project subsequent to the Draft EIS and used in both the FEIS and the Record of Decision was never circulated for public comment. Accordingly, it was the Court's finding that a Supplemental EIS be required for that purpose. The Supplemental EIS will present that information.

The Court also found that the original 4(f) Statement in its final form was inadequate in that it failed to establish there is no feasible and prudent alternative to the use of the parklands, recreational areas and historic sites. In accordance with that order, a new Section 4(f) evaluation will be prepared and circulated with the Draft Supplemental Environmental Impact Statement (DSEIS).

Further interagency and public involvement will be solicited at a public hearing on the DSEIS. To ensure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments or questions concerning this action and the EIS should be directed to the FHWA at the address provided above. No formal scoping meetings are proposed for this DSEIS.

Louis M. Papet,

Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 83-302 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Rulemaking, Research and Enforcement Programs; Public Meetings; Change

The location of the NHTSA/Industry Public meeting, scheduled for 2:00 p.m. until 4:30 p.m. on January 19, 1983, has been changed. The *new location is the Conference Room of the Great Lakes Fishery Laboratory, U.S. Fish and Wildlife Service, 1451 Green Road, Ann Arbor, Michigan.*

Issued in Washington, D.C. on December 28, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 83-136 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-59-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB, November 13-December 22, 1982

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between Nov. 14 and Dec. 22, 1982, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT:

John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-1887

or

Sandy Fisher, Bob Seigel or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503, (202) 395-7313

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the **"FOR FURTHER INFORMATION CONTACT"** paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the **"FOR FURTHER INFORMATION CONTACT"** Paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between Nov. 14 and Dec. 22, 1982:

DOT No: 2092
OMB No: 2125–0008
By: Federal Highway Administration
Title: Unit Maintenance Cost Index
Forms: None
Frequency: Annually
Respondents: State Highway Departments
Need/Use: For the Federal Highway Administration to develop national cost trends for labor, material, and equipment rental rates, and to assist State Highway Departments in preparing maintenance budgets

DOT No: 2093
OMB No: 2120–0056
By: Federal Aviation Administration
Title: Report of Inspection Required by Airworthiness Directives FAR 39
Forms: None
Frequency: On occasion
Respondents: Aircraft owners and operators
Need/Use: The airworthiness directive is the medium used by the Administrator to provide notice to aircraft owners and operators that an unsafe condition exists and prescribes the conditions and/or limitations, including inspections under which the product may continue to be operated

DOT No: 2094
OMB No: 2137–0522
By: Reseach & Special Programs Administration
Title: Leak Report, Distribution System
Forms: DOT Form F 7100.1
Frequency: Recurring, on occasion
Respondents: Gas pipeline operators
Need/Use: The report forms includes information on the nature of the failure, personal injury and property damage resulting from the failure, location and cause of failure. The information is used to evaluate the effectiveness of existing regulations and to plan modifications where appropriate

DOT No: 2095
OMB No: 2137–0524
By: Reseach & Special Programs Administration
Title: Leak Report: Transmission and Gathering Systems
Forms: DOT Form F 7100.2
Frequency: Recurring, on occasion
Respondents: Gas pipeline operators
Need/Use: The report form includes information on the nature of the failure, personal injury and property damage resulting from the failure, location and cause of failure. The information is used to evaluate the effectiveness of existing regulations and to plan modifications where appropriate

DOT No: 2096
OMB No: 2137–0524
By: Reseach & Special Programs Administration
Title: Annual Report: Transmission and Gathering Systems
Forms: DOT Form F 7100.2–1
Frequency: Recurring, annually
Respondents: Operators of gas pipelines
Need/Use: The report concerns the size and nature of the operator's gas system, total number of leaks repaired, total personal injury and property damage during year, and cause of failures. This information is used to evaluate the effectiveness of existing regulations and plan modifications where appropriate

DOT No: 2097
OMB No: 2137–0525
By: Research & Special Programs Administration
Title: Annual Report: Distribution System
Forms: DOT Form F 7100.1–1
Frequency: Recurring annually
Respondents: Operators of gas pipelines
Need/Use: The report concerns the size and nature of the operator's gas system, total leaks repaired, number of personal injuries and property damage, and cause of failures. This information is needed to evaluate the effectiveness of existing regulations and plan modifications where appropriate

DOT No: 2098
OMB No: 2120–0036
By: Federal Aviation Administration
Title: Notice of Landing Area Proposal
Forms: FAA Form 7480–1
Frequency: On occasion
Respondents: Airport/landing area owners
Need/Use: The FAA requires prior notice of construction, alteration, deactivation of airports not involving Federal funds. The information is collected to give public notice

DOT No: 2099
OMB No: 2127–0008
By: National Highway Traffic Safety Administration
Title: Vehicle Owner's Questionnaire
Forms: HS Form 350 and HS Form 350B
Frequency: On occasion
Respondents: Individuals or households
Need/Use: Solicits information from vehicle owners to determine whether a safety defect exists in motor vehicles, motor vehicle equipment or tires

DOT No: 2100
OMB No: 2125–0091
By: Federal Highway Administration
Title: Waiver—Initial and Renewal
Forms: None
Frequency: Biennial
Respondents: Individuals/Business
Need/Use: Persons not physically qualified to drive a commercial motor vehicle in interstate commerce can be issued a waiver. A copy of the waiver must be retained by the driver and the motor carrier

DOT No: 2101
OMB No: 2125–0073
By: Federal Highway Administration
Title: Records of violations and annual review of driving record
Forms: None
Frequency: Annual
Respondents: Individuals/Businesses
Need/Use: Drivers must furnish carriers a list of violations of traffic laws every 12 months for which they were convicted. Records are to be retained in the qualification file. Where there were none a certificate is to be retained. The object is to maintain only operators with safe driving records.

DOT No: 2102
OMB No: 2125–0065
By: Federal Highway Administration
Title: Driver Employment Application
Forms: None
Frequency: Occasionally
Respondents: Business/Individuals
Need/Use: Provides information on driver for use of FHWA and carriers in making determination of eligibility of driver. Application must be retained in file while employed and for 3 years thereafter

DOT No: 2103
OMB No: 2125–0067
By: Federal Highway Administration
Title: Investigations and inquiries of driving record and past employers
Forms: None
Frequency: Occasionally
Respondents: Individuals/Businesses
Need/Use: Requires motor carriers to retain a record regarding each driver applicant's driving record and employment record for the preceding 3 years. Used to eliminate dangerous drivers from operating on the highways

DOT No: 2104
OMB No. 2125–0064
By: Federal Highway Administration
Title: Road Test
Forms: None
Frequency: Occasionally
Respondents: Individuals/Businesses
Need/Use: Requires motor carriers testing or verification of drivers competency for operating the commercial motor vehicle they will be driving

DOT No: 2105
OMB No. 2125–0070
By: Federal Highway Administration
Title: Written Examination
Forms: None
Frequency: Occasionally
Respondents: Individuals/Businesses
Need/Use: Requirement that carriers maintain for 3 years documentation that drivers have basic knowledge of regulations pertaining to motor vehicles in order to ensure safe operations

DOT No: 2106
OMB No. 2125–0081
By: Federal Highway Administration
Title: Qualification Certificate
Forms: None
Frequency: Occasionally
Respondents: Individuals/Businesses
Need/Use: Certification permitted in lieu of documentation in 49 CFR 391 if driver is regularly employed by another motor carrier

DOT No: 2107
OMB No. 2125–0080
By: Federal Highway Administration
Title: Medical Examination
Forms: None
Frequency: Biennially
Respondents: Businesses
Need/Use: Medical examination required by 49 CFR 391.43 and possession of certificate by the driver while operating commercial motor vehicles. Copy to be filed by motor carriers in their driver qualification file, to ensure safe operations on highways

Issued in Washington, D.C. on December 29, 1982.

Robert L. Fairman,

Assistant Secretary for Administration.

[FR Doc. 83-383 Filed 1-5-83; 8:45 am]
BILLING CODE 4910-62-M

Research and Special Programs Administration

[Inconsistency Ruling, IR-6]

City of Covington Ordinance Governing Transportation of Hazardous Materials by Rail, Barge, and Highway Within the City

APPLICANT: General Battery Corporation (IRA–12).

CITY LAW AFFECTED: Commissioners' Ordinance No. 0–31–80 of the City of Covington, Kenton County, Kentucky, dated May 13, 1980, and requiring all commercial rail, barge and truck operators to give advance notification of their intent to transport hazardous, dangerous substances within the jurisdictional confines of the City.

APPLICABLE FEDERAL REQUIREMENTS: Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) sections 102–107 and 109; and Parts 171–174 and 176–177 of the Hazardous Materials Regulations (49 CFR Parts 171–179).

MODES AFFECTED: Rail, water and highway.

ISSUE DATE: December 29, 1982.

RULING: Commissioners' Ordinance No. 0–31–80 is set out in the appendix to this document. Sections (1) through (3) are inconsistent with the HMTA and the regulations issued thereunder and are, therefore, preempted. No conclusion is expressed regarding the procedural provisions set forth as Sections (4) through (6).

SUMMARY: This inconsistency ruling is the opinion of the Materials Transportation Bureau concerning whether Ordinance No. 0–31–80 of the City of Covington, Kentucky, is inconsistent with the HMTA and regulations issued thereunder and, thus, preempted as set forth in section 112(a) of the HMTA. This ruling was applied for and is issued pursuant to the procedures set forth at 49 CFR 107.201–107.209.

FOR FURTHER INFORMATION CONTACT: Elaine Economides, Office of the Chief Counsel, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20590, (Tel. (202) 755–4972).

I. Background

A. *Chronology.* By letter dated September 24, 1980, General Battery Corporation applied for an administrative ruling on the question of whether Ordinance No. 0–31–80 of the City of Covington, Kentucky, is inconsistent with the Hazardous Materials Transportation Act (HMTA) and regulations issued thereunder.

Pursuant to 49 CFR 107.205(a), the Office of the City Solicitor for the City of Covington, by letter dated November 26, 1980, submitted comments regarding the application for an inconsistency ruling.

On August 26, 1982, the Materials Transportation Bureau (MTB) published a notice and invitation to comment (47 FR 37737). In response to that invitation, comments were received from more than 150 individuals, companies and industry associations involved in transportation and affected by the Ordinance. With the exception of the Assistant City Solicitor for the City of Covington, all commenters asserted that Commissioners' Ordinance No. 0–31–80 is inconsistent with the HMTA and associated regulations. Nearly all commenters stressed the need for

uniform and consistent regulations. Many commented on the likelihood that emergency response would be impaired by the introduction of confusing definitions unique to Covington. Most commenters expressed concern that an intolerable burden would be imposed on interstate commerce by the proliferation of prenotification systems utilizing varying, inconsistent classification systems to describe hazardous materials. Several commenters relied on previous inconsistency rulings. Where appropriate, these comments and previous administrative decisions will be discussed in this ruling.

B. *General Authority and Preemption under the HMTA.* With certain exceptions, the HMTA imposes obligations to act only on the Secretary of Transportation. Obligations are imposed on members of the public only by substantive regulations issued under the HMTA. Known as the Hazardous Materials Regulations (HMR), they are codified at 49 CFR Parts 107–179, and mostly predate the HMTA. The HMR previously were authorized by the Explosives and Other Dangerous Articles Act (18 U.S.C. 831–835), which was repealed in 1979 (Pub. L. 96–129, November 30, 1979). The HMTA was enacted on January 3, 1975 and the HMR were reissued under its authority, effective January 3, 1977 (49 FR 39175, September 9, 1976). Subsequent amendments to the HMR have been issued under the authority of the HMTA and with the preemptive effect granted by that Act.

The HMR apply to persons who offer hazardous materials for transportation (shippers), those who transport the materials (carriers), and those who manufacture and retest the packagings and other containers intended for use with the materials. The scope of transportation activity affected includes the packaging of shipments of hazardous materials, package markings (to show content) and labeling (to show hazard), vehicle placarding (to show hazard), handling procedures, such as loading and unloading requirements, care of vehicle and lading during transportation, and the preparation and use of shipping papers to show the identity, hazard class and amount of each hazardous material being shipped. The HMR also require carriers to report in writing to DOT any unintentional release of a hazardous material during transportation. In some cases, an immediate report must be made in addition to the subsequent written report.

A discussion of the preemptive effects of the HMTA appears in previous inconsistency rulings. The discussions in IR–2 (44 FR 75566) and IR–3 (46 FR 18918) are extracted and summarized here.

The HMTA at section 112(a) (49 U.S.C. 1811(a)) preempts "* * * any requirement of a State or political subdivision thereof, which is inconsistent with any requirement set forth in (the HMTA) or regulations issued under (the HMTA)." This express preemption provision makes it evident that Congress did not intend the HMTA and its regulations to completely occupy the field of transportation so as to preclude any State or local action. The HMTA preempts only those State and local requirements that are "inconsistent."

In 49 CFR Part 107, Subpart C, the MTB has published procedures by which a State or political subdivision thereof having a requirement pertaining to the transportation of hazardous materials, or any person affected by the requirement, may obtain an administrative ruling as to whether the requirement is inconsistent with the HMTA or regulations under the HMTA. At the time these procedures were published, the MTB observed that "(t)he determination as to whether a State or local requirement is consistent or inconsistent with the Federal statute or Federal regulations is traditonally judicial in nature." (41 FR 38167, September 9, 1976). There are two principal reasons for providing an administrative forum for such a determination. First, an inconsistency ruling provides an alternative to litigation for a determination of the relationship of Federal and State or local requirements. Second, if a State or political subdivision requirement is found to be inconsistent, such a finding provides the basis for an application for a determination by the Secretary of Transportation as to whether preemption will be waived (49 U.S.C. 1811(b); 49 CFR 107.215–107.225).

Since the proceeding here is conducted pursuant to the HMTA, the MTB will consider only the question of statutory preemption. A Federal court may find a State requirement not statutorily preempted, but, nonetheless, preempted by the Commerce Clause of the U.S. Constitution because of an undue burden on interstate commerce. However, the Department of Transportation does not make such determinations.

Given the judicial character of the inconsistency ruling proceeding, the MTB has incorporated case law criteria for analyzing preemption issues into the preemption procedures at 49 CFR 107.209(c):

> (1) Whether compliance with both the (State or local) requirement and the Act or the regulations issued under the Act is possible; and
>
> (2) The extent to which the (State or local) requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.

The first criterion is the dual compliance or direct conflict test and concerns those State or local requirements that are incongruous with Federal requirements; that is, compliance with the State or local requirement causes the Federal requirement to be violated, or vice versa. The second criterion, in a sense, subsumes the first and concerns those State or local laws that, regardless of conflict with a Federal requirement, stand as "an obstacle to the accomplishment and execution of the (HMTA) and the regulations issued under the (HMTA)." In determining whether a State or local requirement presents such an obstacle, it is necessary to look at the full purposes and objectives of Congress in enacting the HMTA and the manner and extent to which those purposes and objectives have been carried out through the MTB's regulatory program.

In enacting the HMTA, Congress recognized that the Department of Transportation's efforts in hazardous materials transportation regulation lacked coordination by being divided among the various transportation modes, and lacked completeness because of gaps in DOT's authority, most notably in the area of manufacturing and preparation of packagings used to transport these materials. In order to "protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce" (49 U.S.C. 1802), Congress consolidated and expanded the Department's regulatory and enforcement authority.

Specifically with respect to the preemption provision, the legislative history of the provision indicates that Congress intended it "to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation" (S. Rep. No. 1192, 93rd Cong., 2nd Sess. 37 (1974)).

II. Commissioners' Ordinance No. 0–31–80

A. *Advance Notification.* Section 1 of the Ordinance places an obligation to

act on "all commercial rail, barge and truck operators *within the City of Covington* which haul dangerous and hazardous substances". (Emphasis added.) The placement of the phrase "within the City of Covington" creates some confusion, as it could be understood either: (1) To limit coverage of the Ordinance to those operators located exclusively within the City of Covington; or (2) to describe the place where transportation activity must occur to trigger the Ordinance. If the latter interpretation is correct, then a further question arises as to whether the use of the word "within", rather than "through", is intended to limit the effect of the Ordinance to those shipments which occur completely within the boundaries of the City or is it, instead, intended to encompass any shipment which at some point in its transit can be found within the City. Since the Ordinance specifically includes rail and barge operations, transportation modes which are predominantly interstate in nature, it does not seem reasonable to interpret the Ordiance as being limited to intracity operators or shipments. Therefore, the Ordinance will be interpreted as placing an obligation to act on all commercial rail, barge and truck operators which haul dangerous and hazardous substances in or through the City of Covington.

The obligation placed on such operators is "to give advance notification to the Covington Fire Department whenever they intend to transport said substances within the jurisdictional confines of the City of Covington." The Ordinance fails to specify how the notification should be given, when it should occur, or what information should be provided. Conceivably, an operator could comply with the Ordinance by sending a notice on January 1 stating an intent to haul any and all hazardous and dangerous substances through Covington at some time during the new year. That this approach would be unacceptable, however, is apparent upon consideration of the City's purpose in enacting the Ordinance. As described in the City's supplementary response to Docket IRA-12, the City's purpose was "to ascertain exactly what hazardous materials are passing through its confines" in order to "prepare its emergency teams to adequately address a crisis." From this statement of purpose, it is possible to infer that the City seeks advance notification of the contents, time and general route of each shipment of dangerous and hazardous substances passing within its jurisdiction. Thus, it appears that notice must be given sometime after the contents of a shipment are identified and before it enters Covington or, in the case of cargoes on-loaded in Covington, before transportation is initiated within the City.

B. *Definitions.* Those items which the City deemed sufficiently hazardous to require advance notification are defined in Section 2 of the Ordinance. The items are referred to generically as "hazardous, dangerous substances" or, in Section 1, as "dangerous and hazardous substances." (Section 1 also specifically excepts gasoline from operation of the Ordinance.) For purposes of application of the Federal Hazardous Materials Regulations (HMR) (49 CFR Parts 107–179), the term "hazardous substance" is confined to those specifically named materials which are identified in the Hazardous Materials Table (49 CFR 172.101). Under the HMR, gasoline is a hazardous material, but not a hazardous substance. Thus, if the Ordinance's designation of hazardous substances were meant to embrace the Federal definition, the exception of gasoline in Section 1 of the Ordinance would be consistent with that usage. However, Section 2 of the Ordinance contains eight subsections which define the meaning of "dangerous, hazardous substances" as used therein and these demonstrate clearly that the drafters did not intend to adopt the Federal definition of hazardous substances.

Section 2 states that "(f)or the purposes of this ordinance, hazardous, dangerous substances measn any substance or mixture of substances which is" described in the following eight subsections. Each of the subsections (a-h) defining a category of hazardous, dangerous substances is set forth below and compared to the relevant Federal definition.

(a) Toxic and has the inherent capacity to produce bodily harm to man through ingestion, inhalation, or absorption through any body surface, including toxic substances which are poisonous;

Subsection 2(a) provides such a broad description of "toxic" that it would encompass many Federally-defined corrosives, flammables and gases. Similarly, the definition includes all toxic substances which are "poisonous", yet fails to define that term. Within the HMR materials designated as poison A are identified as either those specifically listed by name or with properties analogous to those listed (49 CFR 173.326). Materials designated as poison B are defined by specific test protocols for oral, inhalation and skin absorption toxicity (49 CFR 173.343). Subsection 2(a) provides no such standards for objective determination of whether a specific commodity must be considered toxic under the Ordinance. Since the Ordinance makes no distinctions with regard to the toxicity level, volume, packaging or intended use (e.g. consumer commodity) of the material being transported, its definition of "toxic" materials is so broad as to require advance notification of intent to transport such substances as table salt or aspirin (which can cause bodily harm when ingested in quantity).

(b) Corrosive on contact with living tissue causing substantial destruction of tissue by chemical action, but does not refer to action on inanimate surfaces;

Subsection 2(b) defines "corrosive", a term also used in the HMR to describe a class of hazardous materials. However, while the HMR provide for the identification of corrosive materials by means of a specific test protocol for destruction of living tissue or a specific rate of corrosion on steel (49 CFR 173.240), subsection 2(b) offers only the highly subjective standard of "substantial" destruction of living tissue. In the absence of any limiting language in the Ordinance, subsection 2(b) must be interpreted as requiring advance notification of intent to transport a single bottle of household drain cleaner.

(c) Irritant and not corrosive within the meaning of paragraph (b), which on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction;

Like subsections 2(a) and (b), subsection 2(c) provides a general definition of a class of materials without providing an objective standard for determining whether a specific material meets that definition. The HMR do not include "irritant" as a hazard class. However, the HMR do include a class of materials designated "irritating material" which is defined as a liquid or solid substance which upon contact with fire or when exposed to air gives off dangerous or intensely irritating fumes (49 CFR 173.381). Thus, the Ordinance uses a term similar to the Federal term but imbued with an entirely different meaning. Given the breadth of this definition and the absence of any limiting language in the Ordinance, subsection 2(c) must be interpreted to require advance notification of intent to transport a single tube of cosmetic depilatory.

(d) Strong sensitizer and will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of

the same substance and which is designated as such by the board;

Subsection 2(d) defines a hazard class which has no counterpart in the HMR. Indeed, it is difficult to deduce the meaning of "strong sensitizer". The definition relies on the test of causing an allergic reaction on normal living tissue, but an allergic reaction, by definition, is an abnormal reaction. In addition to meeting this somewhat contradictory test, a "strong sensitizer" must be designated as such by the Covington Board of Commissioners. However, the Ordinance does not indicate how (or whether) notice would be given of the decision to designate a material as a "strong sensitizer".

(e) Flammable with a flashpoint of eighty degrees (80°) Fahrenheit or below;

Unlike the prior definitions, subsection 2(e) attempts to provide an objective standard for determining whether specific materials meet the definition. According to the definition, flammable materials are those with a flashpoint of eighty degrees Fahrenheit or less. However, no indication is made of the test to be used in establishing a material's flashpoint, whether open cup, closed cup, or other. By relying on a flashpoint, the definition in this subsection would seem to refer only to those materials designated in the HMR as flammable liquids (49 CFR 173.115). However, the two designations are not identical, as the HMR defines flammable liquids as having flashpoints of less than one hundred degrees Fahrenheit under specific test conditions, while the Ordinane defines flammables as having a flashpoint of eighty degrees Fahrenheit or less without reference to the test conditions.

(f) Radioactive as a result of disintegration of unstable atomic nuclei and emits energy;

Virtually all matter emits energy as a result of naturally-occurring radionuclides. By contrast, the definition of "radioactive material" in the HMR specifically excludes material in which the specific activity is below a stated level and the radioactivity is essentially uniformly distributed.

(g) Capable of generating pressure through decomposition, heat or other means;

Subsection 2(g) offers another definition which is so broad as to encompass virtually all matter. In the absence of any baseline level of allowable pressure, it is impossible to determine which substances would not be covered by this definition. Milk, which expands when frozen, satisfies the definitional requirement of being capable of generating pressure. Thus, as defined in the Ordinance, milk is a hazardous, dangerous substance.

(h) Capable of causing substantial personal injury or illness during any customary or reasonably anticipated handling or use.

Subsection 2(h) appears to be a catch-all category which would include many substances not subject to the HMR. What substance is not capable of causing substantial personal injury or illness during any customary or reasonably anticipated handling or use? The law of torts is replete with personal injury cases which arose through the customary or reasonably anticipated handling or use of items as common as bar soap.

Taken as a whole, the definitional subsections constitute a system of classifying hazardous materials which is totally at variance with the system of hazard class definitions on which the Federal hazardous materials regulatory system is based.

III. Ruling

A. *Definitions.* In a recent inconsistency ruling, MTB expressed the view that "(t)he foundation of the Federal hazardous materials regulatory system is the definition of hazard classes" (IR–5, 47 FR 51993). In that proceeding, MTB found to be inconsistent a New York City regulation containing definitions of four classes of hazardous materials which differed substantively from the definitions contained in the HMR. That ruling is particularly germane to the subject of this proceeding, as Commissioners' Ordinance No. 0–31–80 sets forth a hazardous materials classification system in which all definitions differ substantively from the Federal scheme.

All compliance with the HMR is predicated upon the correct designation of a material's hazard class. If a material possesses the characteristics described in any of the DOT definitions, then it can be universally recognized as a member of that hazard class. The hazard class designation carries an explicit message to those involved in all aspects of the transportation of that material, putting them on notice of their obligation to comply with the applicable provisions of the HMR, including requirements for packaging, shipping papers, marking, labeling, placarding and handling. Furthermore, the correct hazard class designation conveys information about a material's characteristics which is vital to the effectiveness of emergency response efforts.

In establishing the hazard class definitions, DOT has exercised the express statutory authority created by Section 104 of the HMTA:

Upon a finding by the Secretary, in his discretion, that the transportation of a particular quantity and form of material in commerce may pose an unreasonable risk to health and safety or property, he shall designate such quantity and form of material or group or class of such materials as a hazardous material. (49 U.S.C. 1803).

By implication if a material does not possess the characteristics described in any of the hazard class definitions, then it is not a material which DOT considers as posing "an unreasonable risk to health and safety or property" and, accordingly, application of the HMR to its transportation is not deemed warrented. While the HMTA grants broad discretion to DOT in establishing these definitions, their adequacy as a system of hazard classification is attested by the fact that they have been adopted by a vast majority of the states, including Covington's own state, Kentucky.

To a much greater degree than the New York definitions which were considered in IR–5, the Covington definitions extend the scope of the Ordinance's impact to a wide range of materials that are not subject to the HMR. Moreover, the Ordinance classifies materials differently, for purposes of application of the City's requirements, from their classification for purposes of application of the HMR. Therefore, the first issue to be addressed in this ruling is whether the hazard class definitions contained in Section 2 of the Ordinance are "inconsistent" within the meaning of the HMTA. For the reasons set forth below, I find that the definitions and the resulting applications of the City's requirements are inconsistent with the HMTA and the regulations issued thereunder and are, therefore, preempted.

With regard to the "dual compliance" test, there is no information before MTB to indicate that compliance with the City's requirements which are made applicable by the City's definitions necessarily results in violation of the HMR, or vice versa. Therefore, I cannot conclude that the City's definitions are inconsistent under the "dual compliance" test.

With regard to the "obstacle" test, however, I reach the opposite conclusion. Under that test, the issue is "the extent to which the State or political subdivision requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act." As discussed above, in enacting the HMTA, Congress had two purposes that are relevant to

this proceeding. First, as stated in the policy section of the Act, the fundamental purpose is "to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce." (49 U.S.C. 1801). Second, as stated in the legislative history of the preemption provision (49 U.S.C. 1811), Congress' purpose in enacting that provision was "to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation." (S. Rep. No. 1192, 93rd Cong., 2nd Sess. 37 (1974)).

These two purposes are closely interrelated. For example, in previous inconsistency rulings, MTB has expressed the view that overall public safety demands nationally uniform requirements relating to hazardous materials packaging and hazard warning systems. (IR-2; IR-3; IR-4; 47 FR 12341).

As was stated in IR-2:

> There are also certain areas where the need for national uniformity is so crucial and the scope of Federal Regulation is so pervasive that it is difficult to envision any situation where State or local regulation would not present an obstacle to the accomplishment and execution of the HMTA and the Hazardous Materials Regulations. (44 FR 75568).

In IR-5, the same conclusion was reached regarding hazard class definitions, as these are the starting point for determining the applicability of nationally uniform requirements:

> In addition to the fact that the City's differing hazard class definitions present an obstacle to the accomplishment of the general Congressional purpose of promoting uniformity in hazardous materials transportation, those definitions also present an obstacle to the accomplishment of the more specific purpose of achieving the maximum level of compliance with the HMR. The HMR are, in and of themselves, a comprehensive and technical set of regulations which occupy approximately 1000 pages of the Code of Federal Regulations * * *. For the City to impose additional requirements based on differing hazard class definitions adds another level of complexity to this scheme. Thus, shippers and carriers doing business in the City must know not only the classifications of hazardous materials under the HMR and the regulatory significance of those classifications, but also the City's classifications and their significance. Such duplication in a regulatory scheme where the Federal presence is so clearly pervasive can only result in making compliance with the HMR less likely, with an accompanying decrease in overall public safety. (47 FR 51994).

The likelihood of reduced compliance with the HMR and subsequent decrease in public safety is necessarily greater under the Covington Ordinance, in which all hazard class definitions differ from those in the HMR than under the New York regulations in which the differences involved only four hazard classes. Indeed, the likelihood of reduced compliance becomes even clearer upon consideration of the practical problems carriers face in attempting to comply with the requirements for advance notification which are triggered by the differing hazard class definitions.

Under the HMR, carriers are notified of the presence of Federally-regulated hazardous materials through shipping papers, placards and certificates of compliance which originate with the shipper and accompany the cargo to its destination (49 CFR Part 172). Carriers seldom have the technical capability for scientific analysis of the materials they transport and must rely on the shippers for information about the cargo. But the Ordinance requires carriers to provide advance notification on the basis of criteria which are unrelated to the Federal system on which all hazard communication is based. A carrier's only recourse is to obtain documentation from the shipper in addition to that provided by the shipping papers. The problem is compounded by the vagueness of the definitions in the Ordinance; neither shippers nor carriers could conclude with any degree of certainty that a given material was not a "dangerous and hazardous substance", except, of course, when the material was gasoline. As stated in prior rulings, it is DOT's view that the shipping paper requirements of the HMR are exclusive and that any additional shipping paper requirements are inconsistent under the HMTA. Furthermore, when shipping papers contain information relating to hazard class definitions other than those in the HMR, the resulting confusion can lead to deviations from DOT's uniform hazard warning systems. This, in turn, can have detrimental, and potentially catastrophic, effects during emergency response operations. As was stated in IR-2:

> The effectiveness of (hazard warning) systems depends to a large degree on educating the public, especially emergency response personnel. . . Additional, different requirements imposed by States or localities detract from the DOT systems and may confuse those to whom the DOT systems are meant to impart information. (44 FR 75568).

The key to hazardous materials transportation safety is precise communication of risk. The proliferation of differing State and local systems of hazard classification is antithetical to a uniform, comprehensive system of hazardous materials transportation safety regulation. This is precisely the situation which Congress sought to preclude when it enacted the preemption provision of the HMTA (49 U.S.C. 1811).

For the foregoing reasons, I find that Section 2 of Commissioners' Ordinance No. 0-31-80 is an obstacle to the accomplishment of the HMTA and its regulations. Accordingly, it is my opinion that, to the extent that the definitions contained in Section 2 are made applicable to the transportation of hazardous materials by other provisions of the Ordinance, they are inconsistent with the HMTA and the regulations issued under the HMTA and, in accordance with section 112(a) of the HMTA, are preempted.

B. *Advance Notification.* Commissioners' Ordinance No. 0-31-80 requires all commercial rail, barge and truck operators to give advance notification to the Covington Fire Department whenever they intend to transport hazardous, dangerous substances (as defined therein) within the jurisdictional confines of the City of Covington. Having expressed the opinion that the definitions contained in the Ordinance are inconsistent with the HMR, I shall now consider the question of advance notification independent of the definitional inconsistency. In other words, if the Ordinance were to incorporate the definitions of hazardous materials contained in the HMR, would the advance notification requirement contained in Section 1 of the Ordinance be inconsistent within the meaning of the HMTA? For the reasons set forth below, I find that the City's requirement of advance notification of intent to transport hazardous materials is inconsistent with the HMTA and the regulations issued thereunder and is, therefore, preempted.

With regard to the "dual compliance" test, neither the HMTA nor the regulations issued thereunder contain any prohibition of advance notification systems per se. Therefore, compliance with the Ordinance would not involve violation of any prenotification requirements under the HMTA. However, many commenters asserted that the transportation delays resulting from carriers' efforts to provide the required advance notification would result in violation of the Federal requirement that shipments of hazardous materials be transported without unnecessary delay (49 CFR 174.14; 49 CFR 177.853). The key word is "unnecessary," for it involves considerations which go beyond the

scope of the dual compliance test. While recognizing that compliance with the Ordinance would result in transportation delays, I cannot conclude on the basis of the available information that such delays would constitute an ipso facto violation under the HMR.

With regard to the "obstacle test", however, I reach the opposite conclusion.

Covington's purpose in enacting Ordinance No. 0–31–80 was described in the Assistant City Solicitor's response to the Federal Register notice on this matter:

> By enacting Ordinance 0–31–80, the city commission sought to ascertain exactly what hazardous materials are passing through its confines. Only with this information can the city properly prepare its emergency teams to adequately address a crisis. Preparation without knowing exactly what one is preparing for is not preparation. Only by being informed by the haulers of hazardous substances can the City adequately (sic) prepare a full and all-encompassing team to address any emergency.
>
> * * * Covington excluded gasoline haulers because the city is familiar with the fact that gasoline is hauled through the city and the city is prepared and trained to address an emergency involving that type substance.

Thus, the purpose of the Ordinance is to enable the city to identify what hazards it should be prepared to deal with and to ensure that it is capable of doing so. Both are valid local concerns. As stated in a previous inconsistency ruling (IR–2, 44 FR at 75568), "(a)lthough the Federal Government can regulate in order to avert situations where emergency response is necessary, and can aid in local and State planning and preparation, when an accident does occur, response is, of necessity, a local responsibility." Notwithstanding the validity of Covington's need to prepare for emergencies, there remains the issue of whether the device Covington has chosen to serve that need constitutes an obstacle to the accomplishment and execution of the HMTA.

In recent years, there has been a growing interest the prenotification as a means of hazardous materials management at the State and local level. However, there has been no apparent consensus on the meaning or even the objectives of prenotification. Therefore, MTB commissioned a study of the subject as part of a prenotification. Therefore, MTB commissioned a study of the subject as part of a comprehensive regional study of hazardous materials transportation performed by the Puget Sound Council of Governments. The report (*Analysis of Prenotification: Hazardous Materials Study, Final Report*, May 4, 1981) examined the need for and feasibility of prenotification and analyzed certain questions relating to implementation. Stated briefly, the major conclusion of the study was that, while there appeared to be some merit in alerting jurisdictions to the impending shipment of expecially hazardous materials in order to facilitate emergency response preparedness, the usefulness of the prior notice declined sharply as the number of substances subject to it increased.

This finding substantiates the position taken by Congress in enacting Pub. L. 96–295 (June 30, 1980) which required the Nuclear Regulatory Commission to issue regulations on prenotification for shipments of radioactive wastes posing a potentially significant hazard. This approach not only recognized that the effectiveness of prenotification depends on its being limited to a few high-risk commodities, but also reaffirmed the importance of national uniformity in hazardous materials transportation safety regulation.

Covington's approach to prenotification is to require advance notification of all hazardous materials shipments, not merely those posing an unusually high risk. Full compliance with the Ordinance by commercial rail, barge and truck operators would generate hundreds and possibly thousands of telephone calls daily to the Fire Department. While this tidal wave of information could provide the City with an inventory of the hazardous materials transported within its jurisdictional boundaries, its more probable effect would be to overwhelm the Fire Department's ability to respond by the sheer volume of information thus generated. While Covington is correct in asserting that the only way to protect the lives and property of its citizens is to identify the nature of the hazards they may face, the device chosen to provide the necessary information is neither the only nor the most effective method available. A survey could accomplish the same results more quickly and at less expense to both the City and the carriers. However, inefficiency will not require an ordinance to be deemed inconsistent unless it creates a situation which constitutes an obstacle to the accomplishment and execution of the HMTA.

Compliance wih the requirement for advance notification would necessarily involve some degree of delay in the transportation of hazardous materials. Covington has characterized the delay as de minimis: "All that is required by the Ordinance is that the dispatcher at the carriers (sic) point of origin give Covington advance notice of the intent to transport certain substances within the jurisdictional confines of the City of Covington." (Response to the Application, November 26, 1980, p.2). However, as many commenters were quick to point out, this assertion reflects a basic unfamiliarity with the complexity of motor carrier operations. An individual carrier seldom knows much in advance of any shipment precisely what is being shipped or what route it will follow. Furthermore, carriers frequently make pick-ups and deliveries enroute. In view of these practical considerations, the responsibility for providing advance notification would fall to the driver who, at some point short of the Covington border, would have to interrupt transportation in order to telephone the Fire Department. The prospect of large numbers of vehicles loaded with a variety of hazardous materials piling up at key locations in the surrounding jurisdictions while their drivers attempt to get through to the Covington Fire Department suggests that Covington's attempt to increase safety could operate to its neighbor's detriment. If the approach taken by Covington were deemed an appropriate local activity, it would be no less so for Covington's neighbors, and their neighbors, etc., to the point where a carrier would have to stop at every town line on its route. As was stated in IR–2:

> The manifest purpose of the HMTA and the Hazardous Materials Regulations is safety in the transportation of hazardous materials. Delay in such transportation is incongruous with safe transportation. (44 FR 75571).

Since safety risks are "inherent in the transportation of hazardous materials in commerce" (49 U.S.C. 1801), an important aspect of transportation safety is that transit time be minimized. This precept has been incorporated in the HMR at 49 CFR 177.853, which directs highway shipments to proceed without unnecessary delay, and at 49 CFR 174.14, which directs rail shipments to be expedited within a stated time frame.

While barge and rail operators have little or no alternative to passing through Covington and thereby becoming subject to Ordinance No. 0–31–80, operators of highway vehicles can choose to avoid the advance notification requirement by circumventing the City. As was noted in IR–3:

> The mere threat of delay may redirect commercial hazardous materials traffic into other jurisdictions that may not be aware of or prepared for a sudden, possibly permanent, change in traffic patterns. (46 FR 18921).

Where hazardous materials traffic is diverted to routes not normally used by

commercial vehicles, road conditions may be inadequate. Where it is diverted to routes which safely accommodate an established mix of commercial and private vehicles, the unplanned-for surge of traffic volume may create serious safety hazards which did not exist previously and for which emergency services are inadequate.

Covington asserts that a particularly hazardous situation exists within its borders:

> Covington is situated at the top of a geographical bottleneck, a portion of which is less than one (1) mile wide and contains over half of the city's population (50,000). Within this bottleneck lies interstate highway I-75 and I-71, one of the major north-south highways in our nation. . . . The portion of I-75 and I-71 within Covington is nationally known as "Death Hill" because of the numerous fatal accidents, the bulk of which involve large trucks. (Supplementary Response, p.1, October 2, 1982).

MTB recognizes that "State and local regulatory agencies obviously have and exercise transportation safety responsibilities, especially as regards traffic control" (IR-1, 43 FR 16956). However, when a State or local regulation has the effect of causing significant or unusual rerouting of hazardous materials traffic away from customary commercial routes, it can result in a serious degradation of overall safety. Avoiding this result requires thorough analysis of all relevant safety factors and thorough coordination by all affected jurisdictions. As was stated in IR-3, if a local rerouting scheme is to be consistent with the HMTA, the jurisdiction seeking to achieve rerouting "Must act through a process that adequately weighs the full consequences of its routing choices and ensures the safety of citizens in other jurisdictions that will be affected by its rules" (46 FR 18922). Nothing in the docket indicates that Covington made any attempt to assess the potential impacts of Ordinance No. 0-31-80 on transportation safety in adjacent jurisdictions.

As was stated previously in this ruling, Congress' dual purposes in enacting the HMTA were: (1) To protect the Nation against the risks inherent in hazardous materials transportation; and (2) to prevent a patchwork of varying and conflicting State and local regulations. Commissioners' Ordinance No. 0-31-80 impedes both purposes. By delaying hazardous materials shipments and causing traffic to be diverted from established routes, the Ordinance increases exposure tothe risks inherent in hazardous materials transportation; and to the extent that the Ordinance results in the diversion of hazardous materials traffic into adjacent jurisdictions, it constitutes a routing requirement adopted without consideration of the safety impacts on other affected jurisdictions. To the extent that the Ordinance creates a precedent for the establishment of independent and uncoordinated local prenotification systems, it contributes to the creation of the regulatory patchwork which Congress intended to preclude.

For the foregoing reasons, I find that Sections 1 (advance notification) and 3 (penalties) of Commissioners' Ordinance No. 0-31-80 constitute an obstacle to the accomplishment of the HMTA and its regulations. Accordingly, it is my opinion that they are inconsistent with the HMTA and the regulations issued thereunder and, in accordance with Section 112(a) of the HMTA, are preempted.

Any appeal to this ruling must be filed within thirty days of service in accordance with 49 CFR 107.211.

Issued in Washington, D.C. on December 29, 1982.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

Appendix

Commissioners' Ordinance No. 0-31-80

AN ORDINANCE REQUIRING ALL COMMERCIAL RAIL, BARGE AND TRUCK OPERATORS WITHIN THE CITY OF COVINGTON WHICH HAUL DANGEROUS AND HAZARDOUS SUBSTANCES TO GIVE ADVANCE NOTIFICATION TO THE COVINGTON FIRE DEPARTMENT WHENEVER THEY INTEND TO TRANSPORT SAID MATERIALS, EXCLUDING GASOLINE, WITHIN THE JURISDICTIONAL CONFINES OF THE CITY OF COVINGTON, AND PROVIDING PENALTY FOR THE VIOLATION THEREOF, AND REPEALING AND RESCINDING COMMISSIONERS' ORDINANCE 0-103-79.

* * * * *

Be it ordained by the Board of Commissioners of the City of Covington, Kenton County, Kentucky:

Section 1

That all commercial rail, barge and truck operators within the City of Covington which haul dangerous and hazardous substances, with the exception of gasoline, be and they are hereby required to give advance notification to the Covington Fire Department whenever they intend to transport said substances within the jurisdictional confines of the City of Covington.

Section 2

For the purposes of this ordinance, hazardous, dangerous substances means any substance or mixture of substances which is:

(a) Toxic and has the inherent capacity to produce bodily injury to man through ingestion, inhalation, or absorption through any body surface, including toxic substances which are poisonous;

(b) Corrosive on contact with living tissue causing substantial destruction of tissue by chemical action, but does not refer to action on inanimate surfaces;

(c) Irritant and not corrosive within the meaning of paragraph (b), which on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction;

(d) Strong sensitizer and will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the board;

(e) Flammable with a flashpoint of eighty (80°) degrees Fahrenheit or below;

(f) Radioactive as a result of disintegration of unstable atomic nuclei and emits energy;

(g) Capable of generating pressure through decomposition, heat or other means;

(h) Capable of causing substantial personal injury or illness during any customary or reasonably anticipated handling or use.

Section 3

That any person, firm or corporation in violation of any provision of this ordinance shall be fined in a sum not to exceed Five Hundred ($500.00) Dollars per occurrence and/or six (6) months in jail. Each occurrence shall constitute a separate offense.

Section 4

That all ordinance, or parts, thereof, in conflict herewith are, to the extent of such conflict, hereby repealed. Specifically repealed is Commissioners' Ordinance 0-103-79.

Section 5

That any section or part of a section or any provision of this ordinance which is declared by a court of appropriate jurisdiction, for any reasons, to be invalid, such decision shall not affect or invalidate the remainder of this ordinance.

Section 6

That this ordinance shall take effect and be in full force when passed, published and recorded according to law.

Bernard J. Moormon,

Mayor.

Attest:

Vivian Willman,

City Clerk.

Passed: first reading May 13, 1980.

[FR Doc. 83-136 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[Docket No. 82-27]

Termination of Closed Receivership Fund; Third Notice

Note.—This document originally appeared in the Federal Register of December 23, 1982. It is reprinted in this issue at the request of the agency.

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of termination.

SUMMARY: Notice is hereby given that all rights of depositors and other creditors of national banks which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation to collect liquidating dividends from the "closed receivership fund" shall be barred after twelve months following the date of the fourth publication of this notice.

FOR FURTHER INFORMATION CONTACT: Howard J. Finkelstein, Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1880.

SUPPLEMENTARY INFORMATION: Pursuant to Section 409 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320 (October 15, 1982), notice is hereby given that all rights of depositors and other creditors of closed national banks to collect liquidating dividends from the "closed receivership fund" will be barred after twelve months following the date of the fourth publication of this notice.

Sections 721-723 of the Depository Institutions Deregulation and Monetary Control Act of 1980 clarified the status of the "closed receivership fund" by establishing a procedure for the satisfaction or cancellation of all outstanding claims for liquidating dividends and the termination of the fund. However, the 1980 law applied only to national banks closed on or before January 22, 1934. After the law was passed it came to the Office's attention that there had been at least one bank closed after the above date for which the Comptroller appointed a receiver other than the Federal Deposit Insurance Company. The Office therefore sought clarification of the 1980 law from Congress. Congress provided such clarification in Section 409 of Pub. L. 97-320 by striking the date of January 22, 1934 from the statute and substituting therefor the phrase "which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation."

Under the provisions of the amended law, the Office will publish notices in the Federal Register once each week for four consecutive weeks that all rights of depositors and creditors of the fund will be barred after twelve months following the last date of publication of such notice. This is the third such notice. During this twelve month period, the Office will accept claims for liquidating dividends from the fund. A claim should consist of a Proof of Claim form received from the receiver at the time of the bank's closing or other acceptable evidence of an unsatisfied claim. Claims should be sent to the attention of Mr. Robert L. Teets, Manager, Accounting Programs, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

Following the close of the twelve month period, all unclaimed dividends, together with income earned on liquidating dividends and other moneys remaining in the fund, will be covered into the general funds of the Office.

Dated: December 2, 1982.

C. T. Conover,
Comptroller of the Currency.

[FR Doc. 82-34793 Filed 12-22-82; 8:45 am]
BILLING CODE 4810-33-M

Office of the Secretary

Privacy Act of 1974; Consolidation of Nine Systems of Records

AGENCY: Office of the Secretary, Treasury.

ACTION: Consolidation of nine systems of records notices into one system notice: *Treasury/OS.003—OS Personnel Working Files*

SUMMARY: The Office of the Secretary is consolidating notices for the following nine systems of records into one system notice, Treasury/OS.003—Personnel Working Files:

Treasury/OS.041—Management Analysis Personnel Working Files
Treasury/OS.110—Foreign Assets Control Administrative Records
Treasury/OS.128—ORS Personnel Records
Treasury/OS.140—Annual Performance Rating and Annual Performance Analysis
Treasury/OS.147—Employee Promotion Information
Treasury/OS.152—General Counsel Personnel Files
Treasury/OS.191—Building Management Employee Folder
Treasury/OS.243—Personnel: Personnel; Recruitment, Personnel; Evaluations
Treasury/OS.300—Personnel Files

The records in these systems are all personnel-type records located in the various offices where the employees work. The information in the systems is used for (1) planning and managing staff development, (2) reviewing work performance levels, (3) assessing training needs, (4) recommending promotions, and (5) recruiting and evaluating job applicants. The consolidation will reduce the Department's total number of systems of records.

DATE: This system becomes effective upon publication.

FOR FURTHER INFORMATION CONTACT: Phyllis De Piazza, Disclosure Officer, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220, (202) 566-2789.

Dated: December 27, 1982.

Cora P. Beebe,
Assistant Secretary (Administration).

TREASURY/OS.003

SYSTEM NAME:

OS Personnel Working Files

SYSTEM LOCATION:

Office of Management and Organization.
Office of Revenue Sharing.
Office of General Counsel.
Office of Data Management, OASIA.
Office of the Assistant Secretary for Public Affairs.
Office of Foreign Assets Control.
Office of Facilities Maintenance Branch, OAP.
For addresses, see Systems Manager below.

CATEGORY OF INDIVIDUALS COVERED BY THE SYSTEM:

Past, present and prospective employees for the above-named offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel-type records such as the following: SF 50 and 52 (personnel action); 171 (Employment Qualifications); Résumés; 1012 (Travel Voucher); 1038 (Travel Advance); 3015 (Travel Authorization); Personnel Data Summary Sheet; employee training information; position descriptions; letters of appreciation, counseling, or reference; corrective actions; recommendations for promotions, suspensions; performance appraisals; evaluations; awards; and appointment; and worker's compensation forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information in this system is used for (1) planning and managing staff development, (2) reviewing work performance levels, (3) assessing training needs, (4) recommending promotions, and (5) recruiting and evaluating job applicants. For former employees, the information is used for reference purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File Folders.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Secured file cabinet or locked safe with a limited number of authorized employees permitted access.

RETENTION AND DISPOSAL:

In some offices, files on present and former employees are kept for duration of employment and thereafter for reference purposes. In other offices, files are given to employees upon resignation or are destroyed. For prospective employees, files may be kept three to five years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Acting Director, Office of Management and Organization, Department of the Treasury, Room 4418, 1500 Pennsylvania Avenue, NW, Washington, DC 20220
Administrative Officer, Office of Revenue Sharing, Department of the Treasury, 2401 E Street, NW, 15th Floor, Washington, DC 20226
Administrative Officer, Office of the General Counsel, Department of the Treasury, Room 3006, 1500 Pennsylvania Avenue, NW, Washington, DC 20220
Acting Director, Office of Data Management, OASIA, Department of the Treasury, Room 5127, 1500 Pennsylvania Avenue, NW, Washington, DC 20220
Deputy Assistant Secretary for Public Affairs, Department of the Treasury, Room 3124, 1500 Pennsylvania Avenue, NW, Washington, DC 20220
Director, Office of Foreign Assets Control, Department of the Treasury, Room 504, 1331 G Street, NW, Washington, DC 20226
Chief, Facilities Maintenance Branch, Department of the Treasury, Room B-50, 1500 Pennsylvania Avenue, NW, Washington, DC 20220

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in the system, must submit a written request containing the following elements: (1) Identify the record system: (2) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Chief, Disclosure Branch (See Access below). In some offices, indivduals may review their own record by verbal request to the system manager.

RECORD ACCESS PROCEDURES:

Chief, Disclosure Branch, Department of the Treasury, Room 5423, 1500 Pennsylvania Avenue, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

Record source categories: Information in this system may have been provided by (1) the individual, (2) Personnel Office, (3) the employee's supervisors, (4) an interviewer (5) prior employers.

[FR Doc. 83-219 Filed 1-5-83; 8:45 am]
BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority, December 17, 1982, from the Director, USIA, I hereby determine that the thirteen (13) paintings and twenty-two (22) drawings by Oudry, loaned by the Schwerin Staatliches Museum, German Democratic Republic, in the exhibit of the work of Jean-Baptiste Oudry (1686–1755) (included in the list [1] filed as a part of this determination), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to an agreement among the foreign lenders, the Louvre, Paris, and the Kimbell Art Museum, Fort Worth, Texas. I also determined that the temporary exhibition or display of the listed exhibit objects at the Kimbell Art Museum, Forth Worth, Texas, beginning on or about February 26, 1983, to on or about June 6, 1983, and at the Nelson-Atkins Museum, Kansas City, Missouri, from on or about July 15, 1983, to on or about September 4, 1983, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: January 3, 1983.

Jonathan W. Sloat,

General Counsel and Congressional Liaison.

[FR Doc. 83-369 Filed 1-5-83; 8:45 am]
BILLING CODE 8230-01-M

[1] An itemized of objects included in the exhibit is filed as part of the original document.

Sunshine Act Meetings

Federal Register
Vol. 48, No. 4
Thursday, January 6, 1983

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).

CONTENTS

1

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, January 11, 1983 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, January 13, 1983, at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Proposed regulations on joint fundraising and collecting agents (11 CFR 102.16 and 102.7)
Commission appointment and promotion procedures (non-bargaining unit)
FY 1982 year-end management report
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Elland, Public Information Office; telephone 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S-9-83 Filed 1-4-83; 4:01 pm]
BILLING CODE 6715-01-M

2

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, January 12, 1983.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed amendments to Regulation K (International Banking Operations) regarding bank holding company investment in export-trading companies.
2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-8204.

Dated: January 4, 1983.

James McAfee,
Associate Secretary of the Board.

[S-7-83 Filed 1-4-83; 4:00 pm]
BILLING CODE 6210-01-M

3

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: Approximately 11 a.m., Wednesday, January 12, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20651.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 4, 1983.

James McAfee,
Associate Secretary of the Board.

[S-8-83 Filed 1-4-83; 4:01 pm]
BILLING CODE 6210-01-M

4

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-2]

TIME AND DATE: 9 a.m., Thursday, January 13, 1983.

PLACE: NTSB Board Room, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: The first two items will be open to the public. The last two items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report:* Fire On Board the Cypriot Bulk Carrier *Protector Alpha*, Columbia River, near Kalama, Washington, February 14, 1982, and Recommendations to the U.S. Coast Guard.
2. *Pipeline Accident Report:* Gas Company of New Mexico, Natural Gas Explosion and Fire, Portales, New Mexico, June 18, 1982, and Recommendations to U.S. Department of Transportation; Gas Company of New Mexico; American Public Works Association; American Gas Association, National L.P. Gas Association, and American Public Gas Association.
3. *Opinion and Order:* Administrator v. Shoff, Dkt. SE-5212; disposition of respondent's appeal.
4. *Opinion and Order:* Administrator v. Escott, Dkt. SE-5382; disposition of appeals of both parties.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

January 3, 1983

[S-6-83 Filed 1-4-83; 12:54 pm]
BILLING CODE 4910-58-M

5

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

ACTION: Meeting notice.

STATUS: Open.

TIME AND DATE: 9 a.m., January 7, 1983.

PLACE: The Hilton Hotel, Portland, Oregon.

MATTERS TO BE CONSIDERED:

- Model Conservation Standards—Decision.
- Resource Portfolio—Decision.
- Council Business.
- Public Comment.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong (503) 222-5161. The

Council determined, by majority vote on December 28, 1982, that agency business requires a meeting on January 7, 1983, even though it is not practicable to provide seven (7) days notice of the meeting.

Edward Sheets,

Executive Director.

[S-4-83 Filed 1-4-83; 12:53 pm]

BILLING CODE 0000-00-M

6

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

ACTION: Meeting notice.

STATUS: Open.

TIME AND DATE: 9 a.m., January 26–27, 1983.

PLACE: The Hilton Hotel, Portland, Oregon.

MATTERS TO BE CONSIDERED:

- Adoption of Draft Energy Plan.
- Council Business.
- Public Comment.

FOR FURTHER INFORMATION CONTACT:

Ms. Bess Wong (503) 222–5161.

Edward Sheets,

Executive Director.

[S-5-83 Filed 1-4-83; 12:53 pm]

BILLING CODE 0000-00-M

federal register

Thursday
January 6, 1983

Part II

Department of Transportation

Federal Aviation Administration

Rotorcraft Structural Fatigue and Damage Tolerance; Advance Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. 23485; Notice No. 83-1]

Rotorcraft Structural Fatigue and Damage Tolerance

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking (ANPRM), invitation for interested persons to submit comments, and announcement of public meeting.

SUMMARY: This advance notice proposes to add damage tolerance requirements to the fatigue evaluation of rotorcraft structure. Also included in the advance notice are proposals to extend fatigue evaluations from flight structure to all critical structures, including landing gear, and to explicitly require consideration of operations having a high number of ground-air-ground, or power cycles, per hour. The proposal to add damage tolerance requirements results from an assessment of the potential for preventing crashes and saving lives by the use of redundant structure and other damage tolerant design features, and from an assessment of the current rotorcraft design "state-of-the-art." The proposals to add landing gear and increased frequency of ground-air-ground cycles to the fatigue substantiation resulted from the ongoing Rotorcraft Regulatory Review Program; these are based on two proposals submitted for consideration at the Rotorcraft Review Conference, which was held at New Orleans, Louisiana, in December 1979. The proposals would substantially increase the structural dependability of transport category rotorcraft with a resulting savings in equipment costs and lives.

DATES: A public meeting will be held at 9 a.m., on February 8, 1983. Comments must identify the docket number and comments must be received on or before March 7, 1983.

ADDRESSES: Comments on the advance notice may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 23485; 800 Independence Avenue SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 23485. Comments may be inspected at Room 916, between 8:30 a.m. and 5:00 p.m. The meeting will be held in the FAA Southwest Regional Office training room, ground floor, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas, beginning at 9 a.m.

FOR FURTHER INFORMATION CONTACT: Mr. R. T. Weaver, Regulations Program Management (ASW-111), Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, commercial telephone (817) 624-4911, extension 505, or FTS 736-9505.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals contained in this notice are invited. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received, and a subsequent notice will be issued if the FAA decides to proceed further. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 23485." The postcard will be date/time stamped and returned to the commenter.

Availability of ANPRM

Any person may obtain a copy of this ANPRM by submitting a request to the FAA, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this ANPRM. Persons interested in being placed on a mailing list for future rulemaking documents should also request a copy of Advisory Circular No. 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

Damage due to structural fatigue has been a continuing problem with rotorcraft design and operations since the first civilian helicopter was issued a type certificate in 1946. This structural damage has had an adverse effect on occupant safety, operational schedules, maintenance programs, and economics of operations of rotorcraft fleets. The use of "safe life" (or fatigue life) structural programs has historically been used to prevent or minimize structural fatigue damage during rotorcraft operations. Although the "safe life" approach has been satisfactory in the majority of cases, it has failed to prevent a continuing series of structural failures in the civil rotorcraft fleet. The optional use of "fail safe" criteria has been provided for by Amendment 29-4, effective October 17, 1968, but its use has been limited due to factors such as continued civil production of designs dating back before Amendment 29-4 became effective and the cost of developing redundant or crack resistant structure.

In recent years, several occurrences have made changes in structural fatigue criteria for rotorcraft more desirable and practical. The worldwide search for energy resources has greatly expanded helicopter operations, which multiplies the economic benefits and/or safety effects of any improvements that might be made in helicopter design. Recent military aircraft programs, including rotorcraft, have included damage tolerance requirements. The United States Air Force uses Military Specification MIL-A-8444 for airplane programs, and the United States Army has included projectile strike damage requirements in recent military helicopter programs. Also, recent advances have been made in civil helicopter use of composite construction (with favorable crack retardation characteristics), redundant structural design techniques, and other crack retardation techniques. After consideration of the current state-of-the-art of damage tolerant design, and an evaluation of the potential effectiveness of damage tolerant design in increasing safety, the FAA believes that damage tolerant rotorcraft design is both practical and desirable. The FAA evaluation leading to this ANPRM included a review of rotorcraft accidents to determine the potential for saving lives, and it also included visits to the United States transport rotorcraft manufacturers to determine the current state-of-the-art in transport category

rotorcraft design (both civil and military).

Discussion

Based on the foregoing background information and preliminary investigations, the FAA is considering amending Part 29 of the Federal Aviation Regulations (FAR) to require that transport category rotorcraft, for which new type certificate applications are received after the effective date of this amendment, comply with damage tolerance requirements.

The FAA wishes to obtain the participation of all interested persons in resolving the regulatory issues that are involved in adding damage tolerance requirements to transport rotorcraft certification. The FAA believes that the most effective procedure to gain the maximum participation of interested persons is issuance of this advance notice of proposed rulemaking, requesting written comments and data, and scheduling of an associated public meeting. The comments from the ANPRM and the dialogue from the associated meeting will be used in finalizing a draft damage tolerance section, § 29.571, and accompanying AC 29.571–1 to be published in a Notice of Proposed Rulemaking (NPRM). The follow-on NPRM may be supplemented with a second public meeting if found necessary.

Accordingly, interested persons are invited to review the proposed rule of this advance notice, answer the questions asked, and submit any proposed change to the notice along with wording for an accompanying advisory circular.

Scope of the Advance Notice

The scope of the advance notice of proposed rulemaking, is limited to the transport category rotorcraft airworthiness requirements of Part 29 of the Federal Aviation Regulations (FAR).

Advisory Circular Issuance

The issuance of an advisory circular, concurrently with a new damage tolerance rule, to provide policy guidance for the application of damage tolerance criteria to rotorcraft design is considered appropriate. In the development of an advisory circular to support a transport category rotorcraft damage tolerance rule, responses to the following questions are requested:

1. How explicitly should the advisory circular be in identifying structure for which damage tolerance is impractical?

2. How explicitly should the rule and advisory circular define the areas and the damage to be considered?

3. Should the allocation of substantiation between tests and analyses be explicitly specified, partially specified, or not specified (in an advisory circular or in the rule)?

4. What has been industry experience between redundant structure, structure with crack-stopper design features, and single load path structure designed for slow crack growth?

Economic Impact and Benefits

Public comments concerning the economic impact and benefits are sought in addition to comments on the technical aspects of airworthiness standards to implement damage tolerance design in transport category rotorcraft. Therefore, the FAA solicits information, data, views, etc., regarding the following:

1. Cost estimates pertaining to additional analyses required to comply with the proposed rule.

2. Cost estimates associated with the production of damage tolerant structure (increased material and labor cost estimates are solicited).

3. Estimates of costs associated with increased testing (or estimates of decreased costs of testing if improved damage tolerance design features warrant).

4. Estimates of weight increases, if any, that may result from the new requirements.

5. Suggestions pertaining to alternate methods of accomplishing the objectives of the proposal (to improve safety and decrease equipment losses caused by structural fatigue failures).

The FAA invites comments on the economic factors contained in the above requests. All information provided will be used in the final evaluation of benefits and costs. If it is determined that further rulemaking is appropriate, an NPRM and full regulatory evaluation will be issued containing an economic evaluation relating to its cost and benefits.

Public Meeting

In addition to seeking comments on the proposed damage tolerance requirements of a change to § 29.571 and on a proposed new Advisory Circular 29.571–1, a public meeting will be held in the FAA Southwest Regional Office training room, ground floor, Building 3B, 4400 Blue Mound Road, Fort Worth, Tex., on February 8, 1983, at 9 a.m. for the purpose of allowing interested parties to verbally deliver their written comments.

List of Subjects in 14 CFR Part 29

Air transportation, Aircraft, Aviation safety, Safety, Rotorcraft.

The Proposed Amendment

Accordingly, the FAA proposes to revise § 29.571 of Part 29 of the Federal Aviation Regulations (14 CFR) to read as follows:

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

§ 29.571 Damage-tolerance and fatigue evaluation of structure.

(a) *General.* An evaluation of the strength, detail design, and fabrication must show that catastrophic failure due to fatigue, corrosion, or accidental damage will be prevented throughout the operational life of the rotorcraft. This evaluation must be conducted in accordance with the provisions of paragraph (b) of this section, except as specified in paragraph (c) and (d) of this section, for each part of the structure which could contribute to a catastrophic failure. These parts include but are not limited to rotors, rotor drive systems between the engines and rotor hubs, controls, fuselage, fixed and movable control surfaces, engine and transmission mounting, landing gear, and their related primary attachments. Advisory Circular AC No. 29.571–1 contains guidance information relating to the requirements of this section (copies of the Advisory Circular may be obtained from U.S. Department of Transportation, Publications Section M–443.1, Washington, D.C. 20590). In addition the following apply:

(1) Each evaluation required by this section must include:

(i) The identification of principal structural elements and detail design points, the failure of which could cause catastrophic failure of the helicopter;

(ii) In-flight measurement in determining the following:

(A) Loads or stresses in all critical conditions throughout the range of limitations in § 29.309, except that maneuvering load factors need not exceed the maximum values expected in operations.

(B) The effect of altitude upon loads or stresses.

(iii) Loading spectra as severe as those expected in operation based on loads or stresses determined under paragraph (a)(i)(ii) of this section; including external load operations, if applicable, and other high frequency power cycle operations; and

(iv) The effects of temperatures and humidity expected in service.

(2) The service history of rotorcraft of similar design taking due account of differences in operating conditions and

procedures, may be used in the evaluations required by this section.

(3) Based on the evaluations required by this section, inspections or other procedures must be established as necessary to prevent catastrophic failure; these inspections or other procedures must be included in the airworthiness limitations section of the Instructions for Continued Airworthiness required by § 29.1529.

(b) *Damage-tolerance (fail-safe) evaluation.* (1) The evaluation must include a determination of the probable locations and modes of damage due to fatigue, corrosion, or accidental damage. The determination must be by analysis supported by test evidence and (if available) service experience.

(2) The evaluation must incorporate repeated load application and static analysis supported by test evidence.

(3) For single load path structure the effects of a flaw equivalent to a semicircular crack with a 0.125 inch radius and depth must be considered unless shown to be not applicable.

(4) It must be shown that all partial failures will become readily detectable.

(5) The interval of time between when any partial failure becomes readily detectable under paragraph (b)(4) of this section and the time when any such failure is expected to reduce the remaining strength of the structure to limit or maximum attainable loads (whichever is less) must be longer than the inspection intervals furnished under Section A29.4 of Appendix A to this part.

(6) If significant changes in structural stiffness or geometry, or both, follow from a structural failure or partial failure, the effect on damage tolerance must be further investigated.

(c) *Fatigue (safe-life) evaluation.* Compliance with the damage-tolerance requirements of paragraph (b) of this section is not required if the applicant establishes that their application for particular structure is impractical. This structure must be shown by analysis, supported by test evidence, to be able to withstand the repeated loads of variable magnitude without detectable cracks for the following time intervals:

(1) Life of the rotocraft, or

(2) Within a replacement time furnished under Section A29.5 of Appendix A to this part.

(d) Combination of replacement time and damage-tolerance evaluations. A component may be evaluated under a combination of paragraphs (b) and (c) of this section. For each component it must be shown that the probability of catastrophic failure is extremely remote with an approved combination of replacement time, inspection intervals, and related procedures furnished under Section A29.4 of Appendix A to this part.

(Sec. 313, 314, and 601 through 610, Federal Aviation Act of 1958 [49 U.S.C. 1354, 1355, and 1421 through 1430], sec. 6(c), Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.45)

Note: This advance notice proposes regulations which the FAA believes will substantially reduce the number of rotocraft accidents caused by catastrophic structural fatigue failures. Preliminary evaluation indicates that this ANPRM is not significant under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A full regulatory evaluation will be prepared with the assistance of comments received as a result of this Advance Notice.

Issued in Fort Worth, Texas, on December 16, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 83-423 Filed 1-5-83; 8:45 am]

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H.R. 3942 / Pub. L. 97-389 Fisheries Amendments of 1982. (Dec. 29, 1982) Price $2.00.

H.R. 6204 / Pub. L. 97-390 To provide for appointment and authority of the Supreme Court Police, and for other purposes. (Dec. 29, 1982) Price $1.75.

H.R. 6588 / Pub. L. 97-391 Cow Creek Band of Umpqua Tribe of Indians Recognition Act. (Dec. 29, 1982) Price $1.75.

H.R. 6758 / Pub. L. 97-392 To authorize the sale of defense articles to United States companies for incorporation into end items to be sold to friendly foreign countries. (Dec. 29, 1982) Price $1.75.

S. 816 / Pub. L. 97-393 To amend the Clayton Act to modify the amount of damages payable to foreign states and instrumentalities of foreign states which sue for violations of the antitrust laws. (Dec. 29, 1982) Price $1.75.

H.R. 7356 / Pub. L. 97-394 Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes. (Dec. 30, 1982) Price $4.25.

S. 823 / Pub. L. 97-395 To provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes. (Dec. 30, 1982) Price $1.75.

H.R. 1952 / Pub. L. 97-396 Authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1983, 1984, and 1985, and for other purposes. (Dec. 31, 1982) Price $1.75.

H.R. 5204 / Pub. L. 97-397 To authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians. (Dec. 31, 1982) Price $1.75.

H.R. 6946 / Pub. L. 97-398 To amend title 18 of the United States Code to provide penalties for certain false identification related crimes. (Dec. 31, 1982) Price $1.75.

H.R. 7155 / Pub. L. 97-399 Florida Indian Land Claims Settlement Act of 1982. (Dec. 31, 1982) Price $2.00.

H.R. 7377 / Pub. L. 97-400 To designate the Lakeview Lake project, Mountain Creek, Texas, as the "Joe Pool Lake". (Dec. 31, 1982) Price $1.75.

S. 187 / Pub. L. 97-401 To authorize the Secretary of the Interior to convey certain lands near Miles City, Montana, and to remove certain reservations from prior conveyances. (Dec. 31, 1982) Price $1.75.

S. 1340 / Pub. L. 97-402 To provide for the use and distribution of Clallam judgment funds in docket numbered 134 before the Indian Claims Commission, and for other purposes. (Dec. 31, 1982) Price $1.75.

S. 1735 / Pub. L. 97-403 To provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims. (Dec. 31, 1982) Price $1.75.

S. 3113 / Pub. L. 97-404 To make certain minor and technical amendments to the Job Training Partnership Act. (Dec. 31, 1982) Price $1.75.

S. 625 / Pub. L. 97-405 To revise the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes. (Jan. 3, 1983) Price $1.75.

S. 1501 / Pub. L. 97-406 Educational Mining Act of 1982. (Jan. 3, 1983) Price $1.75.

S. 1965 / Pub. L. 97-407 Paddy Creek Wilderness Act of 1981. (Jan. 3, 1983) Price $1.75.

S. 1986 / Pub. L. 97-408 To provide for the use and distribution of funds awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of Fort Belknap Indian Community, in certain dockets of the United States Court of Claims and of funds awarded to the Papago Tribe of Arizona in dockets numbered 345 and 102 of the Indian Claims Commission, and for other purposes. (Jan. 3, 1983) Price $1.75.

S. 2059 / Pub. L. 97-409 Ethics in Government Act Amendments of 1982. (Jan. 3, 1983) Price $1.75.

S. 2355 / Pub. L. 97-410 Telecommunications for the Disabled Act of 1982. (Jan. 3, 1983) Price $1.75.

S. 2955 / Pub. L. 97-411 Cheaha Wilderness Act. (Jan. 3, 1983) Price $1.75.

S. 3103 / Pub. L. 97-412 To amend section 1304(e) of title 5, United States Code. (Jan. 3, 1983) Price $1.75.

S.J. Res. 270 / Pub. L. 97-413 To designate 1983 as the "Bicentennial of Air and Space Flight". (Jan. 3, 1983) Price $1.75.

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