11-10-81
Vol. 46 No. 217
Pages 55503-55678

# federal register

Tuesday
November 10, 1981

## Highlights

55513 **Iran—Passports and Visas** State revokes certain restrictions on Iranian nationals.

55674 **Manpower Training Programs** Labor/ETA sets forth eligibility criteria and procedures for applying for prime sponsor designation under the Comprehensive Employment and Training Act and invites preapplications for FY 1983. (Part VI of this issue)

55515 **Health Insurance** DOD allows benefit consideration for certain post mastectomy breast reconstruction under the Civilian Health and Medical Program of the Uniformed Services.

55503 **Government Employees—Health Insurance** OPM requires employees to pay for insurance while in nonpay status.

55507 **Banking** DIDC amends rule on ceiling rates for 26-week money market certificates.

55533 **Securities** FRS proposes to permit use of letters of credit as required deposit when borrowing or lending.

55513, 55544 **Income Taxes—Mortgage Subsidy Bonds** Treasury/IRS issues temporary regulations and requests comments on tax-exempt status of interest. (2 documents)

CONTINUED INSIDE

# Highlights

**FEDERAL REGISTER** Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

55544 **Income Taxes—Employee Benefit Plans** Treasury/IRS proposes regulations on certain cash or deferred arrangements.

55628 **Grant Programs—Energy** DOE/CRE proposes regulations on methane transportation research and development. (Part III of this issue)

55542 **Natural Gas** DOE/FERC announces availability of environmental assessment of high-cost gas produced from wells drilled in deep water.

55505 **Uranium** NRC authorizes mill operators in agreement States to possess and dispose of mill tailings.

55510 **Utilities** SEC interprets certain lease transactions.

55536 DOE/FERC proposes to amend regulations on case-by-case exemption of certain small hydroelectric power projects from the Federal Power Act.

55535 DOE/FERC places in the public record materials on inclusion of construction work in progress in rate base of public utilities.

55636 **Grant Programs—Agriculture** USDA establishes policies and standards for administration of grants and cooperative agreements. (Part IV of this issue)

55516 **Water Resources** DOD/Army/EC revokes certain internal planning regulations.

55520 **Radio** FCC expands low power rules for radio control and security alarm devices.

55666 **Inventions and Patents** Commerce/PTO proposes to amend rules of practice in patent cases. (Part V of this issue)

55577 **Prisoners** Justice/PB/NIC cancels implementation of Inmate Grievance Procedure project.

55553 **Animal Diseases** USDA/APHIS requests comments on Brucellosis Eradication Uniform Methods and Rules.

**Regulatory Agendas**

55612 HHS (Part II of this issue)
55534 SBA
55550 SSS

55555 **Privacy Act Document** DOD

55588 **Sunshine Act Meetings**

**Separate Parts of This Issue**

55612 **Part II, HHS**
55628 **Part III, DOE/CRE**
55636 **Part IV, USDA**
55666 **Part V, Commerce/PTO**
55674 **Part VI, Labor/ETA**

# Contents

Federal Register
Vol. 46, No. 217
Tuesday, November 10, 1981

**Agriculture Department**
*See also* Animal and Plant Health Inspection Service; Cooperative State Research Service; Forest Service; Rural Electrification Administration.
RULES
55636 Uniform Federal assistance regulations; grants and cooperative agreements

**Alcohol, Tobacco and Firearms Bureau**
PROPOSED RULES
Alcoholic beverages:
55549 Labeling and advertising; hearing

**Animal and Plant Health Inspection Service**
NOTICES
55553 Brucellosis Eradication Uniform Methods and Rules; proposed amendments; inquiry

**Army Department**
*See* Engineer Corps.

**Civil Rights Commission**
NOTICES
Meetings; State advisory committees:
55554 Delaware
55554 Maine
55554 Montana

**Commerce Department**
*See* International Trade Administration; National Oceanic and Atmospheric Administration; Patent and Trademark Office.

**Commodity Futures Trading Commission**
NOTICES
Contract market proposals:
55555 New York Futures Exchange; domestic bank certificates of deposit

**Conservation and Renewable Energy, Office of Assistant Secretary**
PROPOSED RULES
55628 Methane transportation research and development; review and certification of contracts, grants, cooperative agreements, and projects

**Cooperative State Research Service**
NOTICES
Meetings:
55553 Committee of Nine

**Defense Department**
*See also* Engineers Corps.
RULES
Civilian health and medical program of uniformed services:
55515 Post mastectomy reconstructive breast surgery
NOTICES
55555 Privacy Act; systems of records

**Depository Institutions Deregulation Committee**
RULES
Interest on deposits:
55507 Money market certificates, 26-week; ceiling rates; clarification

**Employment and Training Administration**
NOTICES
Adjustment assistance:
55577 Harry Fisher Corp. et al.
Comprehensive Employment and Training Act programs:
55674 Prime sponsor designation, FY 1983; preapplication criteria and procedures

**Energy Department**
*See also* Conservation and Renewable Energy, Office of Assistant Secretary; Federal Energy Regulatory Commission.
RULES
55507 Advisory committees; CFR Part removed
NOTICES
Remedial orders:
55556 Mobil Oil Corp.
55556, 55557 Shell Oil Co. (2 documents)

**Engineer Corps**
RULES
55516 Water resources planning regulations; CFR Parts removed
NOTICES
55560 Dredged and fill discharge program, jurisdiction; memorandum of understanding with EPA

**Environmental Protection Agency**
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
55517 Alabama
55518 Missouri
Pesticides; tolerances in animal feeds:
55512 Diatomaceous earth
(Editorial note: The three documents listed below, appearing at pages 55091 and 55092 in the **Federal Register** of November 6, 1981, were inadvertently listed under Food and Drug Administration in that issue's table of contents):
Captan
Ethephon; correction
Tricyclazole
Pesticides; tolerances in food:
55511 Diatomaceous earth
Water quality standards; State plans:
55519 North Carolina; withdrawn
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
55550 Georgia and South Carolina
55551 Maine
NOTICES
Air quality; new source review (NSR):
55559 Permit approvals
Air quality; prevention of significant deterioration (PSD):
55558–55560 Permit approvals (6 documents)

55560 Dredged and fill discharge program, jurisdiction; memorandum of understanding with Engineers Corps
Toxic and hazardous substances control:
55558 Premanufacture notices receipts

**Federal Communications Commission**
RULES
Radio frequency devices:
55520 Remote control and security alarm devices
NOTICES
55588 Meetings; Sunshine Act

**Federal Emergency Management Agency**
NOTICES
Disaster and emergency areas:
55561 Texas
Radiological emergency; State plans:
55561 Iowa
55561 Virginia

**Federal Energy Regulatory Commission**
PROPOSED RULES
Electric utilities:
55536 Hydroelectric power projects, small; case-by-case exemption; definitions
55535 Rate schedules filing; inclusion of construction work in progress for public utilities; availability of material included in public record
Natural Gas Policy Act of 1978:
55542 High cost natural gas produced in deep water; qualifications and establishment of incentive price; availability of environmental assessment
Natural Gas Policy Act of 1978; ceiling prices for high cost natural gas produced from tight formations; various States:
55540 Texas

**Federal Maritime Commission**
NOTICES
55562 Agreements filed, etc.

**Federal Prevailing Rate Advisory Committee**
NOTICES
55562 Meetings

**Federal Reserve System**
PROPOSED RULES
Credit by brokers and dealers (Regulation T):
55533 Letters of credit use as required deposit for borrowed securities
NOTICES
Bank holding companies; proposed de novo nonbank activities:
55563 Bankers Trust New York Corp. et al.

**Food and Drug Administration**
RULES
Color additives:
55510 D&C Violet No. 2; use in polydioxanone synthetic absorbable surgical sutures; effective date confirmed; correction
Human drugs:
55512 Labeling exemption for information commonly known; CFR correction
NOTICES
Cooperative agreements:
55564 Marketed drugs, study of effects; correction
Food additives, petitions filed or withdrawn:
55564 Union Camp Corp.
Human drugs:
55564 Topical corticosteroids; class labeling guidelines; availability; correction

**Forest Service**
NOTICES
Environmental statements; availability, etc.:
55553 Alpine Lakes area land management plan, Mt. Baker-Snoqualmie and Wenatchee National Forests, Wash.

**Health and Human Services Department**
*See also* Food and Drug Administration.
PROPOSED RULES
55612 Regulatory agenda
NOTICES
Patent licenses, exclusive:
55564 KFM Corp., Inc.

**Indian Affairs Bureau**
PROPOSED RULES
55542 Fishing; Hoopa Valley Indian Reservation

**Interior Department**
*See* Indian Affairs Bureau; Land Management Bureau; Reclamation Bureau.

**Internal Revenue Service**
RULES
Income taxes:
55513 Mortgage subsidy bonds, tax exempt status; temporary
PROPOSED RULES
Income taxes:
55544 Employee plans; cash or deferred arrangements
55544 Mortgage subsidy bonds, tax exempt status; cross-reference

**International Trade Administration**
RULES
Export licensing:
55508 Commodity control list; footnote clarification
55508 Validated licenses; revocation for export to South Vietnam and Cambodia

**Interstate Commerce Commission**
NOTICES
Motor carriers:
55568, 55573 Permanent authority applications (2 documents)
55573 Permanent authority applications; restriction removals
Railroad operation, acquisition, construction, etc.:
55576 Burlington Northern Railroad Co.
55576 VIA Rail Canada, Inc.

**Justice Department**
*See* National Institute of Corrections.

**Labor Department**
*See also* Employment and Training Administration.
NOTICES
55577 Adjustment assistance (Editorial note: *See* entries under Employment and Training Administration).

**Land Management Bureau**
NOTICES
Classification of lands:
55565 Arizona
Environmental statements; availability, etc.:
55566 Bruneau and Owyhee Resource Areas, Boise District, Idaho; livestock grazing management and vegetative allocation
55566 LeFlore County, Okla.; coal leasing; meeting and inquiry regarding fair market value of coal resource
Exchange of public lands for private land:
55565 Utah
Meetings:
55568 Grand Junction District Grazing Advisory Board
Opening of public lands:
55566 New Mexico
Wilderness areas; characteristics, inventories, etc.:
55565 California; hearing

**National Institute of Corrections**
NOTICES
Grant solicitations:
55577 Inmate grievance procedure implementation; cancelled

**National Oceanic and Atmospheric Administration**
NOTICES
Meetings:
55554 Gulf of Mexico Fishery Management Council

**National Science Foundation**
NOTICES
55588 Meetings; Sunshine Act

**Nuclear Regulatory Commission**
RULES
Source material domestic licensing:
55505 Uranium mill tailings, possession and disposal
NOTICES
Applications, etc.:
55578 Carolina Power & Light Co.
55579 Connecticut Yankee Atomic Power Co.
55579 Duke Power Co. (2 documents)
55580 Houston Lighting & Power Co. et al.
55580 South Carolina Electric & Gas Co. et al.
55581 Texas Utilities Generating Co. et al.
55580 International Atomic Energy Agency codes of practice and safety guides; availability of drafts

**Patent and Trademark Office**
PROPOSED RULES
Patent cases:
55666 Reissue, reexamination, protest and examination procedures

**Pension Benefit Guaranty Corporation**
RULES
Multiemployer plans:
55515 Assets sale; individual and class variances or exemptions procedures; correction

**Personnel Management Office**
RULES
Health benefits, Federal employees:
55503 Nonpay status; continued payment by employees; interim rule and request for comments
PROPOSED RULES
55533 Regulatory agenda; publication delay
NOTICES
Senior Executive Service:
55581 Performance Review Board; membership

**Reclamation Bureau**
NOTICES
Contract negotiations:
55568 Yuma, Ariz., and Gila Project contractors
Environmental statements; availability, etc.:
55567 Auburn-Folsom South Unit, Central Valley Project, Calif.

**Rural Electrification Administration**
NOTICES
Environmental statements; availability, etc.:
55554 Minnkota Power Cooperative, Inc.

**Securities and Exchange Commission**
RULES
55510 Lease transactions; effect of Economic Recovery Tax Act of 1981; interpretation
NOTICES
Hearings, etc.:
55585 Philadelphia Electric Power Co.
55588 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
55581–55584 Municipal Securities Rulemaking Board (3 documents)
Self-regulatory organizations; unlisted trading privileges:
55581 Midwest Stock Exchange, Inc.

**Selective Service System**
PROPOSED RULES
55550 Regulatory agenda

**Small Business Administration**
PROPOSED RULES
55534 Regulatory agenda
NOTICES
Authority delegations:
55586 Deputy Administrator et al.; interagency agreements
Disaster areas:
55586 Michigan
55586 Disaster loan assistance; statutory changes for interest rates

**State Department**
RULES
Visas:
55513 Iranian national seeking entry; immigrants and nonimmigrants, documentation; withdrawn

**Treasury Department**
*See* Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service.

## MEETINGS ANNOUNCED IN THIS ISSUE


**AGRICULTURE DEPARTMENT**
Cooperative State Research Service—
55553 Committee of Nine, St. Louis, Mo. (open), 12–2–81

**CIVIL RIGHTS COMMISSION**
55554 Delaware Advisory Committee, Wilmington, Del. (open), 12–9–81
55554 Maine Advisory Committee, Augusta, Maine (open), 12–1–81

**COMMERCE DEPARTMENT**
National Oceanic and Atmospheric Administration—
55554 Gulf of Mexico Fishery Management Council, Biloxi, Miss. (all sessions open):
Scientific and Statistical Committee, 12–7–81;
Shrimp Resources Subpanel, 12–8–81;
Full council, 12–9 and 12–10–81

**FEDERAL PREVAILING RATE ADVISORY COMMITTEE**
55562 Meetings, Washington, D.C. (partially open), 12–10 and 12–17–81

**INTERIOR DEPARTMENT**
Land Management Bureau—
55567 Auburn-Folsom South Unit, Stockton, Calif., 12–2–81; Sacramento, Calif., 12–3–81 (both sessions open)
55566 Bruneau-Kuna grazing environmental impact statement, Boise, Idaho (open), 12–14 and 12–15–81
55568 Grand Junction District Grazing Advisory Board, Glenwood Springs, Colo. (open), 12–11–81
55566 Great National Corp. competitive lease application, Poteau, Okla. (open), 11–19–81


## CANCELLED MEETING


**CIVIL RIGHTS COMMISSION**
55554 Montana Advisory Committee, Billings, Mont. (open), 11–21–81, cancelled


## HEARINGS


**ENERGY DEPARTMENT**
Conservation and Renewable Energy Office—
55628 Methane transportation research and development, Washington, D.C., 12–4–81 (Part III of this issue)

**INTERIOR DEPARTMENT**
Land Management Bureau—
55565 Eastern San Diego County Wilderness Study Areas, La Mesa, Calif., 12–7–81

**TREASURY DEPARTMENT**
Alcohol, Tobacco and Firearms Bureau—
55549 Alcohol labeling and advertising, San Francisco, Calif., 12–10 and 12–11–81

## CFR PARTS AFFECTED IN THIS ISSUE

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


**5 CFR**
890 ..... 55503

**Proposed Rules:**
Ch. I ..... 55533

**7 CFR**
3015 ..... 55636

**10 CFR**
40 ..... 55505
707 ..... 55507

**Proposed Rules:**
478 ..... 55628

**12 CFR**
1204 ..... 55507

**Proposed Rules:**
220 ..... 55533

**13 CFR**

**Proposed Rules:**
Ch. I ..... 55534

**15 CFR**
390 ..... 55508
399 ..... 55508

**17 CFR**
251 ..... 55510

**18 CFR**

**Proposed Rules:**
2 ..... 55535
4 ..... 55536
35 ..... 55535
271 (2 documents) ..... 55540, 55542
273 ..... 55542
274 ..... 55542

**20 CFR**

**Proposed Rules:**
Ch. III ..... 55612

**21 CFR**
74 ..... 55510
193 ..... 55511
201 ..... 55512
561 ..... 55512

**Proposed Rules:**
Ch. I ..... 55612

**22 CFR**
46 ..... 55513

**25 CFR**

**Proposed Rules:**
258 ..... 55542

**26 CFR**
6a ..... 55513

**Proposed Rules:**
1 (2 documents) ..... 55544

**27 CFR**

**Proposed Rules:**
4 ..... 55549
5 ..... 55549
7 ..... 55549

**29 CFR**
2640 ..... 55515
2643 ..... 55515

**32 CFR**
199 ..... 55515

**Proposed Rules:**
Ch. XVI ..... 55550

**33 CFR**
257 ..... 55516
265 ..... 55516
266 ..... 55516
305 ..... 55516
380 ..... 55516
384 ..... 55516

**37 CFR**

**Proposed Rules:**
1 ..... 55566

**40 CFR**
52 (2 documents) ..... 55517, 55118
120 ..... 55519

**Proposed Rules:**
52 (2 documents) ..... 55550, 55551

**42 CFR**

**Proposed Rules:**
Ch. I ..... 55612
Ch. II ..... 55612
Ch. III ..... 55612
Ch. IV ..... 55612

**45 CFR**

**Proposed Rules:**
Subtitle A ..... 55612
Ch. II ..... 55612
Ch. III ..... 55612
Ch. XIII ..... 55612

**47 CFR**
15 ..... 55520

# Rules and Regulations

Federal Register
Vol. 46, No. 217
Tuesday, November 10, 1981



## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 890

### Federal Employees Health Benefits Program

**AGENCY:** Office of Personnel Management.

**ACTION:** Interim rulemaking, with comments invited for consideration in final rulemaking.

**SUMMARY:** The Office of Personnel Management is issuing interim regulations, effective in January 1982, to require Federal employees to pay for health insurance when they continue enrollment in the Federal Employees Health Benefits (FEHB) program while in nonpay status. The interim regulations require seasonal, on-call, work-study program employees, and other employees who are regularly placed in nonpay status as a condition of employment, to pay both the employee and agency shares of the health insurance cost during nonpay status. Other employees who are not regularly placed in nonpay status as a condition of employment will not be required to pay for continued coverage during a period of nonpay status of 30 days or less, but will be required to pay the employee share when the period of nonpay status exceeds 30 days. Under current regulations, neither employees nor agencies pay for health insurance for up to 12 months of continuous nonpay status.

**EFFECTIVE DATE:** The interim regulations are effective on the first day of the first pay period beginning on or after January 1, 1982.

*Comment date:* Comments must be received on or before March 10, 1982.

**ADDRESS:** Send written comments to Mr. Craig B. Pettibone, Assistant Director for Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044.

**FOR FURTHER INFORMATION CONTACT:** John Landers, (202) 632–4634.

**SUPPLEMENTARY INFORMATION:** The FEHB law, 5 U.S.C. 8906(e)(1), provides that an employee's FEHB enrollment may continue for up to 12 months of continuous leave without pay status. The law authorizes OPM to prescribe regulations governing this benefit and to waive both employee and Government contributions to cover the cost of enrollment during the period of nonpay status. Current regulations, 5 CFR 890.303(e), 890.501 and 890.502, provide that neither the employee nor the employing agency shall contribute to the health insurance cost while an employee in nonpay status continues FEHB coverage. The cost of providing this free coverage results in an increase in the amounts paid by and on behalf of covered employees in pay status.

OPM has determined that continuation of the provision for free FEHB coverage, the cost of which is borne by both employees and the Government, is not warranted at a time when the cost of insurance is increasing dramatically. There are a large number of Federal employees who work under conditions which require that they be placed in a leave without pay status during periods of lack of work. These include seasonal employees (those who work under conditions of a predictable, recurring period of high workload, such as summer park employees or extra tax season employees), and "on-call" employees (those who work at least six months per year under unpredictable workload conditions which require additional employees during peak periods, such as may be required at a ship repair facility). Under current regulations, these employees pay nothing for up to 12 months of continuous nonpay status. Another group of employees which is eligible for FEHB participation, about 22,000 work-study program employees, work for the Government while pursuing a college degree, and are carried in leave without pay for as much as two-thirds of the duration of the work-study program with free health benefits.

These interim regulations will require seasonal, on-call, work-study program employees, and other employees who are regularly placed in nonpay status as a condition of employment, to pay both the employee and agency contributions for their health benefits for up to 12 months (or more in the case of work-study program employees) of continuous nonpay status. Both shares will also be required from these employees whenever the salary available for a pay period is not sufficient to cover the full employee share. Other types of employees will not be required to pay for continued coverage during a period of nonpay status of 30 days or less, but will be required to pay the employee share when the period of nonpay status exceeds 30 days. Where payment of the employee share only is required, the full employee share is required for any pay period during which salary available for health benefits withholdings is insufficient to cover the full employee share. Payment of the agency share during periods of nonpay status will be waived.

The requirement that seasonal, on-call and work-study employees pay the entire cost of health insurance during periods of nonpay status is based on the fact that these employees are recurringly placed in nonpay status from year to year as a condition of employment/appointment. Employees under such circumstances can generally be expected to foresee and provide for themselves during periods of nonpay status. Other employees, however, are employed/appointed without any expectation of being regularly placed in nonpay status. The provision in these interim regulations which allows an employee (other than a seasonal, on-call, work-study or similar type employee) to continue health benefits without cost for periods of up to 30 days is intended to reduce the administrative burden of implementing these regulations. Also, this provision takes into consideration insurance program cost implications of these regulations. The major group of employees who will be paying for health benefits during nonpay status are seasonal employees (about 50,000), while the next most important group, from this standpoint, are those employees who take leave without pay for periods of more than 30 days. The latter group of employees represents a lesser burden to the FEHB program, from a cost perspective, than the former. Employees who are in nonpay status for a month or less represent a much lesser program cost

burden and therefore, OPM has determined that it is not cost effective, with respect to overall Government outlays, to require the administrative expense of collecting health benefits premiums from them.

This amendment is effective for the first pay period beginning on or after January 1, 1982.

These interim regulations leave the method for collecting the payments to the discretion of the agency. However, it will be required that the payments be made on a current basis, or no later than 3 months after the end of the pay period for which they are required, unless the agency determines that the employee was unable to make the payments due to cause beyond his/her control. Failure to make the payments on a current basis (except for cause beyond the employee's control) will constitute a cancellation of the employee's enrollment (without an extension of coverage or conversion privilege) effective at the end of the pay period for which the required payment was last made, or at the end of the pay period during which free coverage ended. An employee whose enrollment has been canceled under these circumstances will not be permitted to reacquire coverage until he/she returns to pay status in a nonexcluded position and has sufficient salary available to cover the required FEHB withholdings. However, the period in nonpay status during which the enrollment may continue does not begin anew until the employee has returned to pay status for at least 4 consecutive months during which the employee was in pay status for at least part of each pay period so as to cover the full employee share. The period of nonpay status following a cancellation due to failure to make the required payments during nonpay status and during which the employee is not, therefore, enrolled, will not be counted against the minimum FEHB program participation requirement for continuation of an enrollment during receipt of annuity or workers' compensation payments.

The Director of the Office of Personnel Management finds good cause to issue these interim regulations without a period of proposed regulations because it is impracticable to publish proposed regulations due to the administrative lead time required for implementation of this amendment to coincide with the 1982 FEHB carrier contract year.

### E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

Office of Personnel Management.

**Donald J. Devine,**

*Director.*

## PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Accordingly, the Office of Personnel Management is amending Part 890 of Title 5, Code of Federal Regulations, as follows:

(1) In Subpart C, § 890.303(e) is revised to read as follows:

**§ 890.303 Continuation of enrollment.**

* * * * *

(e) *In nonpay status.* (1) Except as provided in section 8906(e)(2) of title 5, United States Code, in regard to an employee on leave without pay to serve as a full-time officer or employee of an employee organization, and except as provided in paragraphs (e)(3) and (e)(4) of this section with regard to seasonal, on-call, work-study and similar employees, the enrollment of an employee continues while he/she is in nonpay status without cost to the employee through the end of the pay period in which the employee completes 30 calendar days of continuous nonpay status.

(2) In addition to the period of coverage without cost to the employee as provided under paragraph (e)(1) of this section, the enrollment continues for up to a total of 365 days in nonpay status, subject to the requirements of § 890.502(b) of this chapter. The total 365 days' nonpay status may be continuous or broken by periods of less than 4 consecutive months in pay status. If an employee has at least 4 consecutive months in pay status after a period of nonpay status, he/she is entitled to begin the 365 days' continuation of enrollment anew. For the purposes of this paragraph and paragraph (e)(3) of this section, 4 consecutive months in pay status means any 4-month period during which the employee is in pay status in each pay period long enough to make sufficient salary available to cover the withholdings for health benefits.

(3) Except as provided in section 8906(e)(2) of title 5, United States Code, in regard to an employee on leave without pay to serve as a full-time officer or employee of an employee organization, the enrollment of a seasonal, on-call, or other type of employee who is regularly placed in nonpay status as a condition of employment continues while he/she is in nonpay status for up to 365 days, subject to the requirements of § 890.502(b) of this chapter. The 365 days' nonpay status may be continuous or broken by periods of less than 4 consecutive months in pay status. If an employee has at least 4 consecutive months in pay status after a period of nonpay status, he/she is entitled to begin the 365 days' continuation of enrollment anew.

(4) Except as provided in section 8906(e)(2) of title 5, United States Code, in regard to an employee on leave without pay to serve as a full-time officer or employee of an employee organization, the enrollment of a work-study employee continues while he/she is in nonpay status, subject to the requirements of § 890.502(b) of this chapter, so long as he/she is participating in the cooperative work-study program.

* * * * *

(2) In Subpart C, § 890.304(a)(4) is revised to read as follows:

**§ 890.304 Termination of enrollment.**

(a) * * *

(4) The day on which the continuation of enrollment under § 890.303(e) expires, or, if the employee is not entitled to any further continuation because he/she has not had 4 consecutive months of pay status since exhausting 365 days of coverage in nonpay status, the last day of his/her last pay period when sufficient pay was available to cover the withholdings for health benefits.

* * * * *

(3) In subpart E, § 890.501(e) is revised to read as follows:

**§ 890.501 Government contributions.**

* * * * *

(e) The employing office shall not make a contribution for an employee for periods for which the employee is not required to make a payment or for periods when the employee pays either the employee share only (under § 890.502(b)(2)) or both the employee and Government contributions (under § 890.502(b)(1)).

(4) In Subpart E, § 890.502(b) is revised to read as follows:

**§ 890.502 Employee withholdings.**

* * * * *

(b)(1) If a seasonal employee, an on-call employee, a work-study employee, or other type of employee who is regularly placed in nonpay status as a condition of employment, is carried in nonpay status, or if the pay available for the health benefits withholdings is insufficient to cover the withholdings for a pay period, he/she is required to pay, on a current basis, both the Government and employee contributions for each pay period.

(2) Following completion of the period during which an enrollment continues without cost to the employee under § 890.303(e)(1) of this chapter, and for so long as the enrollment continues thereafter during nonpay status, or during pay periods in which the amount of salary available for health benefits withholdings is insufficient to cover the employee share, the employee is required to pay, on a current basis, the employee share for each pay period.

(3) At the time an employee is placed in a status under which he/she is required to make payments under this paragraph, or at the time such status is continued beyond the last pay period of 1981, the agency shall notify the employee that he/she will be required to pay either the employee share only or both the Government and employee contributions, as the case may be. The notice shall specifically inform the employee how, when and where the payments are to be submitted. The agency is responsible for collecting, accounting for and depositing in the Employees Health Benefits Fund all payments required. Payments are considered to be currently made if received by the agency within 3 months after the end of the pay period covered thereby. Failure to make the required payments currently is deemed to constitute a cancellation of the enrollment effective on the last day of the pay period for which payments were currently deposited, or, if later, at the end of the pay period during which coverage without cost to the employee ended under § 890.303(e)(1) of this chapter. However, coverage which is so canceled may be reinstated retroactively when in the judgment of the agency, the failure to make the required current payment was due to circumstances beyond the control of the employee, and if the required payments are made to the agency at the first opportunity. An employee whose enrollment is canceled under this paragraph is considerd to be automatically enrolled in the same plan and option as he/she had at the time of such cancellation, effective as of the first day of the first pay period in which the employee's available pay is again sufficient to cover the employee share.

(4) For the purposes of this part, a seasonal employee is one who is so designated by the employing agency or who is employed under conditions requiring a recurring period of employment of less that 2080 hours per year in which he/she is placed in a nonpay status in accordance with pre-established conditions of employment; an on-call employee in one who is a permanent career or career-conditional employee hired on a work-as-needed basis for service during periods of heavy workload with a minimum service period of at least 6 months each year; a work-study employee is one who has a career-conditional or career appointment or who is appointed under Schedule B of Part 213 of this chapter, who is employed under a cooperative work-study program of at least one year's duration which requires the employee to be in a pay status during not less than one-third of the total time required for completion of the program.

* * * * *

(5 U.S.C. 8913)

[FR Doc. 81-32674 Filed 11-9-81; 8:45 am]
BILLING CODE 6325-01-M

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 40

### Issuance of General License

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is issuing a general license to authorize uranium mill operators in Agreement States to possess and dispose of mill tailings. The general license is of a temporary nature and required by law to preclude the appearance of technical violations of the Atomic Energy Act of 1954, as amended.

**DATES:** The general license is effective November 8, 1981.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Fonner, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 492-8692.

**SUPPLEMENTARY INFORMATION:** Under the Surface Transportation Assistance Act Amendments of 1978 (Pub. L. 96-106, 93 Stat. 799 (1979)), section 204 of Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), was amended to clarify the respective jurisdictions of the Commission and Agreement States for the three year period commencing upon enactment of the latter Act (Nov. 8, 1978) and for the following years.

In particular, the 1979 amendment added a new section 204(h)(3) to UMTRCA which reads as follows:

> (3) Notwithstanding any other provision of this title, where a State assumes or has assumed, pursuant to an agreement entered into under section 274b. of the Atomic Energy Act of 1954, authority over any activity which results in the production of byproduct material, as defined in section 11e.(2) of such Act, the Commission shall not, until the end of the three-year period beginning on the date of the enactment of this Act, have licensing authority over such byproduct material produced in any activity covered by such agreement, unless the agreement is terminated, suspended, or amended to provide for such Federal licensing. If, at the end of such three-year period, a State has not entered into such an agreement with respect to byproduct material, as defined in section 11e.(2) of the Atomic Energy Act of 1954, the Commission shall have authority over such byproduct material.

The last sentence of section 204(h)(3) states clearly that, absent an amendment to an existing Agreement, the Commission shall have authority over tailings in Agreement States as of November 8, 1981, the end of the three-year period referred to in section 204(h)(3). This consequence results from the operation of law, and the accession of statutory jurisdiction to the Commission requires no further positive action on the part of the Commission or the Agreement State to become effective.

Accordingly, in view of the fact that none of the affected Agreement States (Washington, Colorado, Texas, and New Mexico) has executed an amendment to its Sec. 274 Agreement providing for relinquishment of Federal licensing and regulatory authority over mill tailings and assumption thereof by the State, the Nuclear Regulatory Commission will have licensing and regulatory authority over such material as of November 8, 1981. The new Commission jurisdiction relates only to the tailings and does not affect State licensing and regulation of the processing of source material under current effective Agreements.

Current Commission regulations make no provision for the unlicensed possession of tailings. A consequence of this is that Agreement State uranium mill operators would be technically in violation of Section 81 of the AE Act, and technically could be subject to both criminal penalties under section 223 of the AE Act, and civil penalties under

section 234 of the AE Act if the Commission fails to take some affirmative action. In addition, the Commission needs to establish a legal basis for taking future action, if necessary. In order to avoid any implication of wrongful conduct on the part of uranium mill operators in Agreement States and to provide a basis for future Commission action, the Commission is authorizing Agreement State uranium mill operators to possess and dispose of byproduct material produced in the course of processing source material ore for its uranium content under current Agreement State licenses by the issuance of an immediately effective general license subject to the condition that the operator shall comply with all conditions in its Agreement State license for management and disposal of byproduct material.

Because it is anticipated that the Agreement States will most likely secure amendments to their Agreements, the general license is also conditioned to terminate for each general licensee in a given State when such an amendment is executed.

The general license is intended to fill the gap between November 8, 1981, when the Commission gains jurisdiction over uranium mill tailings in Agreement States, and the time that the affected Agreement States and the Commission execute amendments to existing Agreements adding uranium mill tailings to the categories of nuclear materials already included in the Agreement. Four states are actively seeking such an amendment—Washington, Colorado, Texas, and New Mexico. Barring unforeseen obstacles, the Commission anticipates that an amendment to the Agreement will be executed in late November for Washington, in December for Colorado, and early in 1982 for Texas. Since complete amendment documentation has not yet been received from New Mexico it is not possible to forecast when an amendment can be executed.

In addition the Commission is aware that proposals have been introduced in the Congress of the United States to defer full implementation of the Uranium Mill Tailings Act Agreement State provisions for about one year, including a deferral of the Commission's accession to jurisdiction. These proposals have been attached to NRC appropriations legislation that is near completion. Nonetheless, the Commisson believes that it is desirable to clarify the legal status of uranium mill operators in Agreement States and their relationship to the Federal Government and to preclude the possibility of a time gap during which the waste disposal activities of such operators are arguably unregulated.

In view of the above the general license is conditioned to terminate in any Agreement State when an amendment to the Agreement covering tailings is executed. The general license is not conditioned to terminate upon enactment of current legislative proposals because it is not clear at this time whether those proposals will change the legal structure of the Uranium Mill Tailings Radiation Control Act, or simply preclude the expenditure of appropriated funds on implementation of the Commission's program in Agreement States based upon the codified regulations in Appendix A to 10 CFR Part 40. If the Congress alters the legal structure now existing in UMTRCA and defers Commission accession to jurisdiction in Agreement States, then the general license will be of no force and effect by virtue of the Congressional action; thus there is not need for the Commission to cover that contingency in the general license.

In making the general license dependent upon compliance with waste disposal conditions in State issued source material licenses the Commission is not implying or concluding that such State licenses are adequate or inadequate with respect to regulation of mill tailings. The general license is a temporary measure to fill a legal void and not a validation or rejection of existing State programs. The evaluation and validation of State programs for mill tailings regulation is part of the process of reviewing such programs for the purpose of executing amendments to Agreements. That process is now proceeding independently of this action.

The Commission notes that the general license imposes no new reporting or recording keeping requirements on the general licensees, nor does it impose any other discernible economic burden on Agreement State source material licensees. Accordingly, the Commission certifies under the Regulatory Flexibility Act of 1980, that the general license will not have a significant impact on a substantial number of small entities. There are no more than a dozen affected persons, each a corporation of substance.

The general license is being made effective immediately. Notice and public procedure are impracticable because of the immediate need to provide a legal basis for the affected Agreement State mill operators to possess and dispose of tailings. Notice and public procedure are also unnecessary because the purpose of the general license is to remove an inference of illegality in the activities of state licensed mill operators. The general license continues the status quo and imposes no added burden on Agreement State licensees. For the same reasons the Commission is also exercising its authority to dispense with the usual 30-day notice period required by 5 U.S.C. 553(d).

Therefore, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 40, is published as a document subject to codification.

## PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

1. The authority citation for Part 40 is revised to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 83, 84, 161, 182, 183, 68 Stat. 932, 933, 948, 953, 954, as amended (42 U.S.C. 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233); sec. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846), unless otherwise noted.

(Sec. 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273) § 40.41(c) issued under sec. 161b., 68 Stat. 948 (42 U.S.C. 2201(b)) and §§ 40.23(e)(3), 40.61 and 40.62 issued under sec. 161o., 68 Stat. 950, as amended (42 U.S.C. 2201(o)))

(Sec. 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152))

2. A new § 40.27 is added to Part 40 to read as follows:

**§ 40.27. General license to posses and dispose of byproduct material.**

(a) A general license is hereby issued to receive title to, own, possess, and receive byproduct material as defined in this Part without regard to form or quantity.

(b) The general license in paragraph (a) of this section applies only to persons in Agreement States who hold current Agreement State specific licenses authorizing activities that result in the production of byproduct material, including byproduct material possessed or stored at a State authorized disposal containment area or transported incident to such authorized activity.

(c) Each general licensee shall comply with all conditions concerning byproduct material contained in the specific license issued by the Agreement State and with all applicable State regulations.

(d) The general license issued in this section shall terminate as to general

licensees in any given Agreement State upon either of the following events taking place:

(1) Execution of an amendment to the State Agreement relinquishing Commission jurisdiction over such by-product material.

(2) Upon the date fixed by the Commission in a notice issued to the general licensees in an Agreement State based upon a Commission determination that it will not execute an amendment to a State Agreement relinquishing Commission authority and that such byproduct material should be licensed under a specific license issued by the Commission.

Dated at Washington, D.C. this 6th day of November, 1981.

For the Nuclear Regulatory Commission.

**Samuel Chilk,**

*Secretary of the Commission.*

[FR Doc. 81-32611 Filed 11-6-81; 2:19 pm]

BILLING CODE 7590-01-M

## DEPARTMENT OF ENERGY

### 10 CFR Part 707

### Advisory Committees; Removal

**AGENCY:** Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** This rule removes 10 CFR Part 707, entitled "Advisory Committees", of the Department of Energy regulations. The regulations contained in Part 707 substantially reiterate the requirements of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix I, and are, therefore, unnecessary.

**EFFECTIVE DATE:** November 10, 1981.

**FOR FURTHER INFORMATION CONTACT:** Georgia Hildreth, Chief, Advisory Committee Management Branch, Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585, 202-252-5187.

**SUPPLEMENTARY INFORMATION:** These regulations are being removed from the Code of Federal Regulations in accordance with President Reagan's agenda for regulatory relief. Pursuant to section 501(c) of the Department of Energy Organization Act (DOEOA), I have determined that no substantial issue of fact or law exists and that this action will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Accordingly, the Department of Energy is not bound by the prior notice and hearing requirements of section 501 (b), (c), and (d) of the DOEOA, and may promulgate this rule in accordance with section 553 of Title 5, United States Code. This action, however, does not require compliance with the rulemaking procedures outlined in 5 U.S.C. 553 because Part 707: (1) Primarily addresses matters relating to agency management or personnel, which are exempted by 5 U.S.C. 553(a)(2), and (2) reiterates existing rights, accorded by the FACA and the Office of Management and Budget's Circular A-63, that are unaffected by the removal of these regulations. The Department finds, therefore, in accordance with 5 U.S.C. 553(b)(3)(B) that notice and public procedure thereon are unnecessary. Finally, 5 U.S.C. 553(d) provides that the required publication of a substantive rule be made at least 30 days before its effective date; however, the Department of Energy has determined that the removal of these regulations from the Code of Federal Regulations does not constitute a substantive rule.

This action has been reviewed in accordance with Executive Order 12291, issued February 17, 1981, and it has been determined that it does not constitute a major rule within the meaning of the Executive Order.

In consideration of the foregoing, Part 707 of Chapter II, Title 10 of the Code of Federal Regulations is hereby removed.

Issued in Washington, D.C., November 2, 1981.

**James B. Edwards,**

*Secretary.*

### PART 707—ADVISORY COMMITTEES [REMOVED]

For the reasons set out in the preamble, Part 707, Chapter II of Title 10 of the Code of Federal Regulations is hereby removed.

(Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565) (42 U.S.C. 7251, 7254))

[FR Doc. 81-32563 Filed 11-9-81; 8:45 am]

BILLING CODE 6450-01-M

## DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

### 12 CFR Part 1204

[Docket No. D-0021]

### Ceiling Rates for 26-Week Money Market Certificates

**AGENCY:** Depository Institutions Deregulation Committee.

**ACTION:** Technical amendment to final rule.

**SUMMARY:** This technical amendment clarifies that depository institutions may not round any interest rate to the next higher rate in connection with paying interest on 26-week money market certificates ("MMCs"). Additionally, this technical amendment clarifies that interest may not be compounded on MMCs during the term of the deposit and that the optional ceiling rate is determined on the basis of the average of the four bill rates (auction average on a discount basis) for U.S. Treasury bills with maturities of 26 weeks established and announced at the four auctions held immediately prior to the date of the MMC deposit.

**EFFECTIVE DATE:** November 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** Allan Schott, Attorney-Advisor, Treasury Department (202/566-6798); John Harry Jorgenson, Senior Attorney, Board of Governors of the Federal Reserve System (202/452-3778); F. Douglas Birdzell, Counsel, Federal Deposit Insurance Corporation (202/389-4324); Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377-6446); or David Ansell, Attorney, Office of the Comptroller of the Currency (202/447-1880).

**SUPPLEMENTARY INFORMATION:** On September 22, 1981, the Committee adopted a final rule, effective November 1, 1981, concerning the maximum interest payable on MMCs. The rule provides that depository institutions may pay interest on any nonnegotiable time deposit of $10,000 or more with a maturity of 26 weeks at a fixed interest rate ceiling indexed to the higher of either (a) The rate for 26-week United States Treasury bills auctioned immediately prior to the date of deposit, or (b) a moving average of the discount rate based on the four auction average rates (discount basis) for 26-week U.S. Treasury bills established and announced at the four auctions held immediately prior to the date of deposit. The Committee adopted this rule to provide an alternative method of calculating MMC rate ceilings to enable depository institutions to be more competitive with money market mutual funds and other market instruments, especially during a period of declining rates.

This amendment is intended to clarify the intent of the Committee that the other rules concerning MMCs remain in effect. Consequently, depository institutions may not round any interest rate to the next higher rate, and the prohibition on compounding interest on MMCs during the term of the deposit also continues. These provisions were omitted inadvertently in the Federal Register document previously published

on this matter. Finally, the rule is amended to make clear that the optional ceiling rate provided to depository institutions is based on the average of the four most recent Treasury bill rates and not on an average of the four most recent MMC ceiling rates established under this section.

Because this is a technical amendment that clarifies the Committee's earlier action, the Committee finds that application of the notice and public participation provisions of 5 U.S.C. 553 to this action would be contrary to the public interest, and that good cause exists for making this action effective November 1, 1981.

Pursuant to its authority under Title II of Pub. L. 96–221, 94 Stat. 142 (12 U.S.C. 3501 *et seq.*), to prescribe rules governing the payment of interest and dividends on deposits of federally insured commercial banks, savings and loan associations and mutual savings banks, effective November 1, 1981, the Committee revises § 1204.104 of 12 CFR Part 1204 to read as follows:

## PART 1204—INTEREST ON DEPOSITS

**§ 1204.104 26-week money market time deposits of less than $100,000.**

Commercial banks, mutual savings banks, and savings and loan associations may pay interest on any nonnegotiable time deposit of $10,000 or more, with a maturity of 26 weeks, at a rate not to exceed the ceiling rates set forth below. The ceiling rate shall be based on the higher of either (1) the rate established and announced (auction average on a discount basis) for U.S. Treasury bills with maturities of 26 weeks at the auction held immediately prior to the date of deposit ("Bill Rate"), or (2) the average of the four rates established and announced (auction average on a discount basis) for U.S. Treasury bills with maturities of 26 weeks at the four auctions held immediately prior to the date of deposit ("Four-Week Average Bill Rate"). Rounding any rate to the next higher rate is not permitted, and interest may not be compounded during the term of this deposit.

| Bill rate or four-week average bill rate | Interest rate ceiling |
|---|---|
| **Commercial Banks** | |
| 7.50 per cent or below | 7.75 per cent. |
| Above 7.50 per cent | One-quarter of one percentage point plus the higher of the Bill Rate or Four-Week Average Bill Rate. |
| **Mutual Savings Banks and Savings and Loan Associations** | |
| 7.25 per cent or below | 7.75 per cent. |
| Above 7.25 per cent, but below 8.50 per cent. | One-half of one percentage plus the higher of the Bill Rate or Four-Week Average Bill Rate. |
| 8.50 per cent or above, but below 8.75 per cent. | 9 per cent. |
| 8.75 per cent or above | One-quarter of one percentage point plus the higher of the Bill Rate or Four-Week Average Bill Rate. |

By order of the Committee, October 30, 1981.

Steven L. Skancke,

*Executive Secretary.*

[FR Doc. 81–32496 Filed 11–9–81; 8:45 am]

BILLING CODE 4810–25–M

## DEPARTMENT OF COMMERCE

### International Trade Administration

### 15 CFR Part 390

### Removal of § 390.5, General Order Revoking Validated Licenses for Export to South Vietnam and Cambodia

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Export Administration Regulations by removing and reserving § 390.5, General order revoking validated licenses for export to South Vietnam and Cambodia. This change neither expands nor limits the provisions of the Regulations, and only removes § 390.5 because it is obsolete. Current U.S. export policy toward Vietnam and Cambodia (Kampuchea) is now covered in § 385.1, Country Group Z; North Korea, Vietnam, Kampuchea and Cuba.

**EFFECTIVE DATE:** November 10, 1981.

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

**SUPPLEMENTARY INFORMATION:**

#### 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 coments on this regulation are welcome on a continuing basis.

## PART 390—GENERAL ORDERS

**§ 390.5 [Reserved]**

Accordingly, the Export Administration Regulations (15 CFR Parts 368 through 399) are amended by removing and reserving § 390.5.

(Secs. 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980))

Dated: October 22, 1981.

William V. Skidmore,

*Director, Office of Export Administration, International Trade Administration.*

[FR Doc. 81–32498 Filed 11–9–81; 8:45 am]

BILLING CODE 3510–25–M

### 15 CFR Part 399

### Amendments of the Commodity Control List

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends one entry on the Commodity Control List to clarify references to two footnotes. It also amends another entry to clarify the coverage of a note.

**EFFECTIVE DATE:** November 10, 1981.

**FOR FURTHER INFORMATION CONTACT:** Archie Andrews, Director, Exporters' Service Staff, Room 1623, Office of Export Administration, Washington, D.C. 20230, (Telephone: 202–377–4811).

**SUPPLEMENTARY INFORMATION:**

**Rulemaking Requirements**

Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. App. 2401 *et seq.*) ("the Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that to the extent practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because this regulation does not impose new controls on exports. 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.

This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and it is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

**Substance of the Regulation**

On November 19, 1980 (45 FR 76435–76436), Entry No. 6499G on the Commodity Control List (Supplement No. 1 to § 399.1) was revised to add a footnote concerning exports to the Republic of South Africa and Namibia. However, in the January 1, 1981 issue of the Code of Federal Regulations, the wrong footnote was cited. This regulation corrects that citation.

Entry No. 1529A contains a note to define "user accessible reprogramming capability". The placement of this note at the end of the entry has caused some confusion regarding the applicability of the note to the various sub-entries. Therefore, the entry is amended to place the note immediately following 1529(b)(5), the sub-entry to which it applies.

## PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

**Supplement No. 1 to § 399.1 [Amended]**

Accordingly, the Commodity Control List (15 CFR Supp. No. 1 to § 399.1) is amended as follows:

1. Entry No. 6499G is revised to read as follows:

| Export control commodity number and commodity description | Unit | Validated license required | GLV dollarvalue limits T&V | Processing code | Reason for control |
|---|---|---|---|---|---|
| 6499G [2] [3] Other transportation equipment, n.e.s.; and parts and accessories, n.e.s. | | SZ [2] [3] | | MG | 3 |

[2] A validated license also is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 371.2(c)(11) and § 385.4(a).

[3] A validated license also is required for export or reexport to the U.S.S.R. if the exporter knows or has reason to know the commodity is for any use directly in preparation for, in conduct of, or visually identified with the 1980 Summer Olympic Games which began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979. This commodity control list entry as well as the other entries in this Group are subject to controls on the basis of the above criteria.

2. Entry No. 1529A is amended by revising (b)(5), the note to (b)(5), and (h) to read as follows:

| Export control commodity number and commodity description | Unit | Validated license required | GLV dollar value limits T&V | Processing code | Reason for control |
|---|---|---|---|---|---|
| 1529A Electronic measuring, calibrating counting, testing, and/or time interval measuring equipment, whether or not incorporating frequency standards, having any of the following characteristics. | No | PQSTVWYZ | 1,000 | EE | |

* * * * * * *

(b) Instruments, as follows:

* * * * * * *

(5) Incorporating computing facilities with user accessible reprograming capability and an alterable memory of more than 8,192 bits;

("User accessible reprograming capability" as used in this entry means:

(i) The instrument contains a computing facility, *e.g.*, a microprocessor; and

(ii) The user has the ability to alter the computing program through external controls *e.g.*, switches, keyboards, digital buses, etc.)

* * * * * * *

(h) Specially designed parts and accessories therefor.

(Specify by name and model number)

(Secs. 3, 5, 6, 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); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980))

Dated: October 23, 1981.

William V. Skidmore,

*Director, Office of Export Administration, International Trade Administration.*

[FR Doc. 81-32499 Filed 11-9-81; 8:45 am]

BILLING CODE 3510-25-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 251

[Release No. 35-22259]

### Interpretative Release; Lease Transactions Under Economic Recovery Tax Act of 1981

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Interpretation of certain lease transactions.

**SUMMARY:** The Economic Recovery Tax Act of 1981 (Pub. L. No. 97-34), an amendment to the Internal Revenue Code, which became law August 13, 1981, among other things, liberalized prior limitations on tax benefits though sale and leaseback to finance new plant and equipment. Inquiries have been received regarding the effect of the amendments on lease transactions under the Public Utility Holding Company Act of 1935 ("Act"), and this interpretive release is published here in response. Amended section 168(f)(8) and the Temporary Regulations thereunder issued by the Internal Revenue Service on October 20, 1981, include the principal changes relevant here.

**DATE:** November 4, 1981.

**FOR FURTHER INFORMATION CONTACT:** Aaron Levy, Director, Division of Corporate Regulation, (202) 523-5691, Grant G. Guthrie, Associate Director, (202) 523-5156, or James E. Lurie, Special Counsel, (202) 523-5683, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** Rule 7(d), adopted May 31, 1973 (HCAR No. 17980), relates to the financing of utility facilities by sale and leaseback. It exempts the lessor, as owner of the utility facilities, which are leased back to the public utility company, from the definition of "electric utility company" or "gas utility company" in sections 2(a)(3) or 2(a)(4) of the Act. Without this exemption, the lessor as such owner would be a public utility company,[1] and its parent company a holding company as defined in section 2(a)(7), for which, in the typical financing lease, no exemption from registration under the Act is available.

Under the Code, prior to the recent amendments, it was necessary for tax purposes that the lessor finance the full cost of the utility facility and for the lessee to pay as rent, during the term of the lease, the cost to the lessor that includes a return on invested capital. Upon the expiration of the lease, the lessor was required to be the sole owner of the facility, who might sell the facility to the lessee at not less than its then fair market value.

As amended, the code permits, without requiring, the lessee to acquire the facility at the end of the lease for a specified price. It also permits the lessee to assume part of the lease financing by accepting a debt obligation of the lessor for part of the price, provided that the lessor have an maintain an investment of at least 10% of the tax basis of the facility. The Temporary Regulations [2] note, as an illustration, the case in which the lessor acquires the facility for 20% of the price in cash and a note to the lessee for 80%, with the terms of payment, principal and interest, exactly matching the rent to be paid by the lessee for the term of the lease.[3] The qualified lease under section 168(f)(8) continues to require a transfer or sale and a leaseback of the facilities to the public utility company, but the emphasis is on entitlement to the tax benefits associated with the facilities. The Temporary Regulations permit the lessee to have legal title for purposes of local law and retain the "burdens, benefits, and incidents of ownership."[4]

The Commission does not consider the lessor's interest of sufficient magnitude to deem the lessor an owner under sections 2(a)(3) or 2(a)(4) of the Act, if (1) a qualified lease under section 168(f) vests full possession and use of the utility facilities in the lessee during the term thereof and (2) there is no requirement for payments by the lessee to the lessor during the term or on expiration thereof other than equal or offsetting payments. A lessor under a lease such as this does not need the exemption under Rule 7(d) provided that in substantive effect the lease complies with these conditions. The lessor's status is unaffected by formal or technical variations in such leases, or by provisions for contingencies, including remedies on default.

If a sale and lease transaction involves a public utility company in a registered holding-company system, there are several provisions of the Act that might apply to the lessee. The terms "sale" in section 2(a)(23) and "acquisition" in section 2(a)(22) include a disposition or acquisition by lease. A sale of the utility facility to the lessor may be subject to section 12(d), and the lease to the public utility might be an acquisition subject to sections 9(a)(1) and 10, which also would apply to a note from the lessor for payment on the sale to the lessor. But, if under the terms of the lease, as specified above, the lessor is not a statutory owner under sections 2(a)(3) or 2(a)(4), the related transactions affecting the lessee do not constitute a statutory sale or acquisition that, as indicated, might or would otherwise apply.

### PART 251—INTERPRETATIVE RELEASES RELATING TO THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 AND GENERAL RULES AND REGULATIONS THEREUNDER

Accordingly, 17 CFR Part 251 is amended by adding this release thereto.

By the Commission.

Dated: November 4, 1981.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 81-32516 Filed 11-9-81; 8:45 am]

BILLING CODE 8010-01-M

[1] Section 2(a)(3) defines an electric utility company as a company which "*owns* or operates" electric utility facilities, and a gas utility company is one that "*owns* or operates" facilities specified in section 2(a)(4). (emphases added.)

[2] *Special rules for leases under the Economic Recovery Tax Act of 1981*, 46 FR 51907 (October 32, 1961).

[3] See Temporary Regulations § 5c.168(f) (8)-1(e), Example (2).

[4] See Temporary Regulations § 5c.168(f) (8)-1(c)(2).

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 74

[Docket No. 79C-0450]

### Listing of Color Additives Subject to Certification; D&C Violet No. 2; Confirmation of Effective Date; Correction

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule; correction.

**SUMMARY:** In FR Doc. 81-27729 appearing at page 47216 in the Federal Register of Friday, September 25, 1981, the following change is made: the heading "LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION; D&C VIOLET NO. 2;

CONFIRMATION OF EFFECTIVE DATE" should read, "LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION; D&C VIOLET NO. 2; CONFIRMATION OF EFFECTIVE DATE."

**FOR FURTHER INFORMATION CONTACT:** Agnes Black, Federal Register Writer (HFC–11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. 301–443–2994.

Dated: November 3, 1981.

**William F. Randolph,**

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 81–32307 Filed 11–9–81; 8:45 am]

BILLING CODE 4110–03–M

## ENVIRONMENTAL PROTECTION AGENCY

### 21 CFR Part 193

[PH–FRL–1980–5; FAP 1H5303/R87]

### Diatomaceous Earth; Establishment of a Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a regulation permitting the use of the insecticide diatomaceous earth in spot and/or crack and crevice treatments in food processing and food storage areas.

**EFFECTIVE DATE:** Effective on November 10, 1981.

**ADDRESS:** Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St., SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** George T. LaRocca, Product Manager (PM) 15, Registration Division (TS–767C), Office of Pesticide Programs, Rm. 204, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2400).

**SUPPLEMENTARY INFORMATION:** EPA issued a notice published in the Federal Register of July 1, 1981 (46 FR 34416) that International Diatoms Industries Ltd., 904 West 23rd St., Yankton, SD has filed a food additive petition with EPA. This petition proposed that 21 CFR Part 193 be amended by establishing a regulation permitting the use of diatomaceous earth in spot and/or crack and crevice treatments in food processing and food storage areas. On September 16, 1981, the petitioner amended its proposal by expanding the exemption request to include the use of diatomaceous earth for spot and/or crack and crevice treatments in feed processing and feed storage areas pursuant to 21 CFR Part 561. Also on October 6, 1981, the petitioner amended the proposal by deleting the requirement that diatomaceous earth be used only in conjunction with pyrethrin and piperonyl butoxide. A related document establishing a regulation for feed handling establishments appears elsewhere in this issue of the Federal Register.

No comments or requests for referral to an advisory committee were received in response to the notice of filing.

The data reported in the petition and other relevant material have been evaluated. Although no residue chemistry data were submitted, the nature of the residue is understood and would consist primarily of silicon dioxide. Little, if any, residues of diatomaceous earth in or on food or feed from the proposed use is expected. The proposed use is not likely to result in secondary residues in meat, milk, poultry or eggs.

In further support of this proposal, diatomaceous earth has been exempted as an active ingredient from the requirement of a tolerance for use against insects in stored grains pursuant to 40 CFR 180.1017. It has also been cleared under § 180.1001(c), wherein residues of adjuvant materials are exempted from the requirement of a tolerance when used in accordance with good agricultural practice as an inert (or occasionally active) ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Other relevant clearances include: 21 CFR 182.90 (substances migrating to food from paper and paperboard used to package foodstuffs), 21 CFR 573.340 (animal feeds as an inert anticaking agent), 21 CFR 240.1051 (clarifying agent in fruit juices, drinking water, etc.), and 21 CFR 172.480 (anticaking agent in food).

The fate of the pesticide is adequately understood and an adequate analytical method for silica (AOAC, 12th Edition, Method 3.005 (1975), with microscopic identification of diatoms) is available for enforcement purposes.

No actions are pending against continued registration of the pesticide, nor are any other relevant considerations involved in establishing the regulation.

The pesticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136). Therefore, the food additive regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before December 10, 1981, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M–3708, (A–110), 401 M St., SW., Washington, DC 20460. Such objections must be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirement of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that the regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945).

Effective on: November 10, 1981.

(Sec. 409(c)(1), 72 Stat. 1786, 21 U.S.C. 348(c)(1))

Dated: October 29, 1981.

**James M. Conlon,**

*Acting Director, Office of Pesticide Programs.*

## PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR Part 193 is amended by adding a new § 193.135 to read as follows:

**§ 193.135 Diatomaceous earth.**

The food additive diatomaceous earth may be safely used in accordance with the following conditions. Application shall be limited solely to spot and/or crack and crevice treatments in food processing and food storage areas in accordance with the prescribed conditions:

(a) It is used or intended for use for control of insects in food processing and food storage areas: *Provided,* That the food is removed or covered prior to such use.

(b) To assure safe use of the insecticide, its label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

[FR Doc. 81-32819 Filed 11-9-81; 8:45 am]

BILLING CODE 6560-32-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 201

### Drugs: Information Commonly Known; Revocation of Labeling Exemption

*CFR Correction*

In Title 21, Code of Federal Regulations, Parts 200 to 299, revised as of April 1, 1981, in Part 201, § 201.160 appearing on page 42, should be removed.

BILLING CODE 1505-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 21 CFR Part 561

[PH-FRL-1980-4; FAP 1H5303/R86]

### Diatomaceous Earth; Establishment of a Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a regulation permitting the use of the insecticide diatomaceous earth in spot and/or crack and crevice treatments in feed processing and feed storage areas.

**EFFECTIVE DATE:** Effective on November 10, 1981.

**ADDRESS:** Written objections may be submitted to the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** George T. LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Office of Pesticide Programs, Rm. 204, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2400).

**SUPPLEMENTARY INFORMATION:** EPA issued a notice published in the Federal Register of July 1, 1981 (46 FR 34416) that International Diatoms Industries Ltd., 904 West 23rd St., Yankton, SD, has filed a food additive petition with EPA. This petition proposed that 21 CFR Part 193 be amended by establishing a regulation permitting the use of diatomaceous earth in spot and/or crack and crevice treatments in food processing and food storage areas. On September 16, 1981, the petitioner amended its proposal by expanding the exemption request to include the use of diatomaceous earth for spot and/or crack and crevice treatments in feed processing and feed storage areas pursuant to 21 CFR Part 561. Also on October 6, 1981, the petitioner amended the original proposal by deleting the requirement that diatomaceous earth be used only in conjunction with pyrethrin and piperonyl butoxide. A related document establishing a regulation for food handling establishments appears elsewhere in this issue of the Federal Register.

No comments or requests for referral to an advisory committee were received in response to this notice of filing.

The data reported in the petition and other relevant material have been evaluated. Although no residue chemistry data were submitted, the nature of residue is understood and would consist primarily of silicon dioxide. Little, if any, residues of diatomaceous earth in or on food or feed from the proposed use is expected. The proposed use is not likely to result in secondary residues in meat, milk, poultry or eggs.

In further support of this proposal, diatomaceous earth has been exempted as an active ingredient from the requirement of a tolerance for use against insects in stored grains pursuant to 40 CFR 180.1017. It has also been cleared under § 180.1001(c), wherein residues of adjuvant materials are exempted from the requirement of a tolerance when used in accordance with good agricultural practice as an inert (or occasionally active) ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Other relevant clearances include: 21 CFR 182.90 (substances migrating to food from paper and paperboard used to package foodstuffs), 21 CFR 573.340 (animal feeds as an inert anticaking agent), 21 CFR 240.1051 (clarifying agent in fruit juices, drinking water, etc.), and 21 CFR 172.480 (anticaking agent in food).

The fate of the pesticide is adequately understood and an adequate analytical method for silica (AOAC, 12th Edition, Method 3.005 (1975), with microscopic identification of diatoms) is available for enforcement purposes.

No actions are pending against continued registration of the pesticide, nor are any other relevant considerations involved in establishing the regulation.

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before December 10, 1981, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, (A-110), 401 M St., SW., Washington, DC 20460. Such objections must be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirement of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that the regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have significant economic impact on a substantial number of small entities.

A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945).

Effective on: November 10, 1981.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: October 29, 1981.

**James M. Conlon,**

*Acting Director, Office of Pesticide Programs.*

### PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR Part 561 is amended by adding a new § 561.145 to read as follows:

**§ 561.145 Diatomaceous earth.**

The feed additive diatomaceous earth may be safely used in accordance with the following conditions. Application shall be limited solely to spot and/or crack and crevice treatments in feed processing and feed storage areas in

accordance with the prescribed conditions:

(a) It is used or intended for use for control of insects in feed processing and feed storage areas: *Provided,* That the feed is removed or covered prior to such use.

(b) To assure safe use of the insecticide, its label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

[FR Doc. 81-32620 Filed 11-9-81; 8:45 am]
BILLING CODE 6560-32-M

## DEPARTMENT OF STATE

### Bureau of Consular Affairs

### 22 CFR Part 46

[Dept. Reg. 108.811]

### Additional Requirements in the Case of Certain Nonimmigrant Aliens

**AGENCY:** State Department.

**ACTION:** Final rule.

**SUMMARY:** Section 46.8 which was added to Part 46 of Title 22 of the Code of Federal Regulations on April 7, 1980 to impose certain additional requirements on nationals of Iran, other than Iranian Government officials travelling on Government business to the United Nations, is revoked in view of the release of the American hostages by the government of Iran.

**EFFECTIVE DATE:** This rule becomes effective November 10, 1981.

**FOR FURTHER INFORMATION CONTACT:** Cornelius D. Scully III, Director, Office of Legislation, Regulations and Advisory Assistance, Visa Services, Bureau of Consular Affairs, Department of State, (202) 632-1980.

**SUPPLEMENTARY INFORMATION:** In view of the release of the hostages by the Government of Iran, it is no longer in the national interest to review outstanding visas issued to nationals of Iran prior to April 7, 1980 or to restrict the entry into the United States of Iranians holding valid visas issued by consular officers of the United States. Because the regulations in this order are issued with respect to a foreign affairs function of the United States, the exemptions under section 1(a)(2) of the Executive Order 12291 of February 17, 1981 are applicable to these regulations. In addition, compliance with the provisions of the Administrative Procedures Act is unnecessary because the regulations remove restrictions previously imposed on certain classes of aliens. In light of these circumstances § 46.8 of Title 22 is revoked.

### PART 46—CONTROL OF ALIENS DEPARTING FROM THE UNITED STATES

**§ 46.8 [Removed]**

Accordingly, 22 CFR Part 46 is amended by removing § 46.8.

(Sec. 215(a)(1) 92 Stat. 971; 8 U.S.C. 1185)

Dated: September 3, 1981.

**Alexander M. Haig, Jr.,**

*Secretary of State.*

Dated: September 22, 1981.

**William French Smith,**

*Attorney General.*

[FR Doc. 81-32508 Filed 11-9-81; 8:45 am]
BILLING CODE 4710-06-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 6a

[T.D. 7794]

### Mortgage Subsidy Bonds; Temporary Regulations

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Temporary regulations.

**SUMMARY:** This document contains temporary income tax regulations relating to the tax-exempt status of interest on mortgage subsidy bonds. These regulations affect all purchasers and governmental issuers of tax-exempt housing bonds. The changes made by these regulations are necessary to modify certain provisions contained in the present temporary regulations. In addition, the text contained in the temporary regulations set forth in this document serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the Federal Register.

**DATE:** These temporary regulations are effective for governmental obligations issued after April 24, 1979.

**FOR FURTHER INFORMATION CONTACT:** Harold T. Flanagan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3294).

**SUPPLEMENTARY INFORMATION:**

#### Background

This document contains amendments to the temporary regulations relating to mortgage subsidy bonds under section 103A of the Internal Revenue Code of 1954. These amendments modify Treasury Decision 7780, published in the Federal Register for July 1, 1981 (46 FR 34311), which provided regulations under section 103A of the Code. Section 103A was enacted by the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499, 94 Stat. 2660). The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

#### Explanation of Provisions

Section 103A of the Internal Revenue Code of 1954 provides that a mortgage subsidy bond shall be treated as an obligation not described in section 103(a) (1) or (2). As such, the interest on a mortgage subsidy bond is not excludable from gross income. However, under section 103A(b)(2) a qualified mortgage bond and a qualified veterans' mortgage bond shall not be treated as a mortgage subsidy bond, and the interest thereon is excludable from gross income.

The definition of the term "proceeds" provided in § 6a.103A-1(b)(5) is amended so as to treat participation fees paid by a financial institution and retained by the issuer as original proceeds of the issue. Section 6a.103A-2(i)(3)(iv) is correspondingly amended by deleting the rule which treats such fees as investment proceeds of nonmortgage assets. An issuer, rather than rebating such fees to the mortgagors, may use the fees for any purpose for which original proceeds may be used, including payment of debt service or financing of owner-occupied residences. Accordingly, such fees and the earnings from the investment of the fees are subject to all of the requirements of section 103A. Further, the fees are subject to the requirements of section 103(c).

The temporary regulations relating to mortgage eligibility requirements are amended by providing that compliance with certain administrative procedures, such as examination of an applicant's income tax returns and receipt of an affidavit from an applicant, will be considered to satisfy the requirements of § 6a.103A-2(c)(1)(ii). These "safe harbors" will allow issuers to rely conclusively on the information received from the applicant at the time that the mortgage is executed or assumed. Further, if, after such execution or assumption, additional information demonstrates the failure of such mortgage to comply with the mortgage eligibility requirements there will be no retroactive effect for purposes of § 6a.103A-2(c)(1)(ii).

Section 6a.103A-2(d)(3) is amended by providing new rules for determining whether a residence is used in a trade or business. A residence which is primarily

intended to be used in a trade or business does not meet the requirements of paragraph (d). Any use, however, which fails to give rise to a deduction allowable for certain expenses incurred in connection with the business use of a home pursuant to section 280A shall not be treated as use in a trade or business. Further, if more than 15 percent of the total area of a residence is expected to be used primarily in a trade or business then such residence does not meet the requirements of paragraph (d).

Finally, the definition of "temporary initial financing" provided in § 6a.103A–2(j)(2) is amended by increasing the maximum term of such financings from 6 months to 24 months.

Evaluation of the effectiveness of these regulations will be based on comments received from offices within the Treasury and the Internal Revenue Service, other governmental agencies, and the public. These regulations will not impose substantial new reporting or recordkeeping requirements.

**Drafting Information**

The principal author of these temporary regulations is Harold T. Flanagan 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 regulations, on matters of both substance and style.

**Adoption of Amendments to the Regulations**

The amendments to the temporary regulations contained in 26 CFR Part 6a are as follows:

## PART 6a—TEMPORARY REGULATIONS UNDER TITLE II OF THE OMNIBUS RECONCILIATION ACT OF 1980

**Paragraph 1.** Paragraph (b)(5) of § 6a.103A–1 is revised to read as follows:

**§ 6a.103A–1 Interest on mortgage subsidy bonds.**

* * * * *

(b) *Definitions.* * * *

(5) *Proceeds.* The term "proceeds" includes original proceeds and investment proceeds. The terms "original proceeds" and "investment proceeds" shall have the same meaning as in § 1.103–13(b)(2). Unless otherwise provided in § 6a.103A–2 or this section, however, amounts earned from the investment of proceeds which are derived from qualified mortgage bonds in nonmortgage investments may not be commingled for the purposes of accounting for expenditures with other non-bond amounts, and such proceeds are investment proceeds even though not treated as investment proceeds for purposes of section 103(c). Repayments of principal on mortgages shall be treated as proceeds of an issue. Amounts (such as State appropriations or surplus funds) which are provided by the issuer or a private lender in conjunction with a qualified mortgage bond or a qualified veterans' mortgage bond shall not be treated as proceeds of a mortgage subsidy bond under this section. However, fees which are paid by a participating financial institution pursuant to an agreement with the issuer whereby such institution receives the right to originate or service mortgages and which are retained by an issuer are treated as original proceeds of the issue. Amounts provided by the issuer or a private lender may be treated as proceeds of an issue for purposes of section 103(c).

* * * * *

**Par. 2.** Section 6a.103A–2 is amended by revising paragraph (c)(1)(ii) and example (1) of paragraph (c)(1)(iv) and by adding new example (4) to paragraph (c)(1)(iv), by revising paragraph (d)(3), by revising paragraph (i)(3)(iv), and by revising paragraph (j)(2). These revised and new provisions read as follows:

**§ 6a.103A–2 Qualified mortgage bonds.**

* * * * *

(c) *Good faith compliance efforts*—(1) *Mortgage eligibility requirements.* * * *

(ii) Ninety-five percent or more of the lendable proceeds (as defined in § 6a.103A–2(b)(1)) that were devoted to owner financing were devoted to residences with respect to which, at the time the mortgages were executed or assumed, all such requirements were met. In determining whether the proceeds are devoted to owner financing which meets such requirements, the issuer may rely on an affidavit of the mortgagor that the property is located within the issuer's jurisdiction and an affidavit of the mortgagor and the seller that the requirements of § 6a.103A–2(f) are met. The issuer may also rely on his own or his agent's examination of copies of income tax returns which were filed with the Internal Revenue Service and which are provided by the mortgagor or obtained by the issuer or loan originator in accordance with the procedures set forth in § 301.6103(c)–1 which indicate that, during the preceding 3 years, the mortgagor did not claim deductions for taxes or interest on indebtness with respect to real property constituting his principal residence, in addition to an affidavit of the mortgagor that the requirements of § 6a.103A–2(e) are met. The mortgagor may also provide the issuer or his agent with an affidavit that the mortgagor was not required to file such return in accordance with section 6012 during one or all of the preceding 3 years. Where a particular mortgage fails to meet more than one of these requirements, the amount of the mortgage will be taken into account only once in determining whether the 95-percent requirement is met. However, all of the defects in the mortgage must be corrected pursuant to paragraph (c)(1)(iii) of this section.

* * * * *

(iv) *Examples.* The following examples illustrate the application of paragraph (c)(1) of this section:

*Example (1).* State X issues obligations to be used to provide mortgages for owner-occupied residences. X contracts with bank M to originate and service the mortgages. The trust indenture and participation agreement require that the mortgages meet the mortgage eligibility requirements referred to in paragraph (c)(1). In addition, pursuant to procedures established by X, M obtains a signed affidavit from each applicant that the applicant intends to occupy the property as his or her principal residence within 60 days after the final closing and thereafter to maintain the property as his or her principal residence. Further, M obtains from each applicant copies certified by the Internal Revenue Service of the applicant's Federal tax returns for the preceding 3 years and examines each statement to determine whether the applicant has claimed a deduction for taxes on real property which was the applicant's principal residence pursuant to section 164(a)(1) or a deduction pursuant to section 163 for interest paid on a mortgage secured by real property which was the applicant's principal residence. Also in accordance with X's procedures, M obtains from each applicant a signed affidavit as to facts that are sufficient for M to determine whether the residence is located within X's jurisdiction and affidavits from the seller and the buyer that the purchase price and the new mortgage requirements have been met, and neither M nor X knows or has reason to believe that such affidavits are false. The mortgage instrument provides that the mortgage may not be assumed by another person unless X determines that the principal residence, 3-year, and purchase price requirements are met at the time of the assumption. These facts are sufficient evidence of the good faith of the issuer and meet the requirements of paragraph (c)(1)(i). Further, if 95 percent of the lendable proceeds are devoted to owner financing which according to these procedures meet the requirements of paragraphs (d), (e), (f), and (i), then the issue meets the requirements of paragraph (c)(1)(ii).

* * * * *

*Example (4).* The facts are the same as in Example (1), except that the issuer requires copies of the applicant's signed tax returns that were filed with the Internal Revenue

Service for the preceding 3 years but does not require that such returns be certified. If 95 percent of the lendable proceeds are devoted to owner financing which according to these procedures meet the requirements of paragraphs (d), (e), (f), and (i), then the issue meets the requirements of paragraph (c)(1)(ii).

* * * * *

(d) *Residence requirements.* * * *

(3) *Principal residence.* Whether a residence is used as a principal residence depends upon all the facts and circumstances of each case, including the good faith of the mortgagor. A residence which is primarily intended to be used in a trade or business shall not satisfy the requirements of this paragraph. For purposes of the preceding sentence, any use of a residence which does not qualify for a deduction allowable for certain expenses incurred in connection with the business use of a home under section 280A shall not be considered as a use in a trade or business. Except for certain owner-occupied residences described in paragraph (b)(6) of § 6a.103A–1, a residence more than 15 percent of the total area of which is reasonably expected to be used primarily in a trade or business does not satisfy the requirements of this subparagraph. Further, a residence used as an investment property or a recreational home does not satisfy the requirements of this subparagraph.

* * * * *

(i) *Arbitrage and investment gain.* * * *

(3) *Nonmortgage investment.* * * *

(iv) *Nonmortgage investments.* A nonmortgage investment is any investment other than an investment in a qualified mortgage. For example, a mortgage-secured certificate or obligation is a nonmortgage investment. Investment earnings from participation fees (described in § 6a.103A–1(b)(5)) are treated as investment proceeds on nonmortgage investments unless such fees are used to pay debt service or to finance owner occupied residences.

* * * * *

(j) *New mortgages.* * * *

(2) *Exceptions.* For purposes of this paragraph, the replacement of—

(i) Construction period loans,

(ii) Bridge loans or similar temporary initial financing, and

(iii) In the case of a qualified rehabilitation, an existing mortgage, shall not be treated as the acquisition or replacement of an existing mortgage. Generally, temporary initial financing is any financing which has a term of 24 months or less.

* * * * *

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805)).

Dated: November 4, 1981

Roscoe L. Egger, Jr.,

*Commissioner of Internal Revenue.*

Approved:

John E. Chapoton,

*Assistant Secretary of the Treasury.*

[FR Doc. 81–32480 Filed 11–5–81; 11:48 am]

BILLING CODE 4830–01–M

## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Parts 2640 and 2643

### Variances for Sale of Assets; Procedures for Individual and Class Variances or Exemptions; Correction

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule; correction.

**SUMMARY:** In a document published September 17, 1981, 46 FR 46127, regarding Variances for Sale of Assets, Part 2643, language regarding approval of the reporting requirements by the Office of Management and Budget was inadvertently omitted. This document corrects that omission.

**EFFECTIVE DATE:** November 10, 1981.

**FOR FURTHER INFORMATION CONTACT:**

James M. Graham, Office of the Executive Director, Policy and Planning, Suite 7300, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862. [This is not a toll-free number].

**SUPPLEMENTARY INFORMATION:** At p. 46127, column 3, add a fourth paragraph to the SUMMARY section, to read as follows: "In accordance with the Paperwork Reduction Act, the Office of Management and Budget has approved the reporting requirements of Part 2643 for use through 9–30–83. OMB No. 1212–0021."

Issued in Washington, D.C. on this 5th day of November, 1981.

Robert E. Nagle,

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 81–32550 Filed 11–9–81; 8:45 am]

BILLING CODE 7708–01–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### 32 CFR Part 199

[DoD Regulation 6010.8–R]

### Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)—Amendment No. 9

**AGENCY:** Office of the Secretary, Defense.

**ACTION:** Amendment of final rule.

**SUMMARY:** This amends DoD Regulation 6010.8–R (32 CFR 199) which implements the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). This amendment implements language contained in Department of Defense Appropriations Act, FY 1981, Pub. L. 96–527. The amendment will allow benefit consideration for postmastectomy reconstruction of the breast when the mastectomy was performed as a result of carcinoma, fibrocystic disease, other nonmalignant tumors, or traumatic injuries.

**EFFECTIVE DATE:** This amendment is retroactively effective to services rendered on or after October 1, 1980.

**FOR FURTHER INFORMATION CONTACT:**

James N. Snipe, Chief, Policy Division, OCHAMPUS, telephone (303) 361–8608.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 77–7834, appearing in the Federal Register on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8–R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title.

Breast reconstruction following mastectomy was, in the past, an uncommon and controversial procedure. Professional concern about the possibility of disease recurrence, a high rate of complication and the technical difficulties imposed by radical mastectomy militated against widespread acceptance of the reconstructive procedure.

In recent years, however, there has been a change in attitude regarding management of breast disease. At one time, radical mastectomy was the procedure of choice for breast cancer. Improved diagnostic techniques, including educational programs encouraging self-examination which enable earlier diagnosis and treatment have led to the development of less radical procedures. Furthermore, women

in increasing numbers are refusing to accept radical mastectomy simply because it is recommended.

The less radical mastectomy procedures have made reconstruction technically feasible. There is also a greater awareness that the possibility of reconstruction has made women better able to accept amputation of a breast when medically indicated.

It seems reasonable to assume that better identification of persons at risk, and improved methods of diagnosis combined with the greater acceptability of mastectomy because of subsequent reconstruction, may lead to early treatment which should result in an increase in cures. More cures reduce morbidity and mortality and, ultimately, costs, even when the additional costs of reconstruction are considered. These factors have helped to remove most of the professional concerns about the appropriateness of postmastectomy breast reconstruction and this change in the professional environment is reflected in the third party benefits available for this procedure.

As a result, the Department of Defense Appropriations Act, 1981, (Pub. L. 96–527) authorizes CHAMPUS coverage of postmastectomy breast reconstructive surgery to overcome the effects of trauma or disease.

Section 199.10 (e)(8)(i) of this part sets forth the limited CHAMPUS benefits provided in connection with cosmetic, reconstructive and/or plastic surgery as follows:

1. Correction of a congenital anomaly; or

2. Restoration of body form following an accidental injury; or

3. Revision of disfiguring and extensive scars resulting from neoplastic surgery.

As a result of the enactment of Pub. L. 96–527, paragraph (e)(8)(i) must be amended to include postmastectomy reconstructive surgery to overcome the effects of trauma or disease.

Finally, in order to avoid any potential conflict in interpretation, paragraph (e)(8)(v)(*c*) of this section is also amended.

As authorized under Title 5, United States Code, section 553(b)(B), the final regulation is being published and no previous public comment has been requested. It was determined that the benefit has been expanded through Congressional legislation in December 1980, and it is not in the public interest to delay the implementation through the publication of a proposed rule.

## PART 199—IMPLEMENTATION OF THE CIVILIAN AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

Accordingly, 32 CFR Part 199 is amended reading as follows:

Section 199.10 is amended as follows:

a. By removing the existing paragraph (e)(8)(i)(*d*) and adding a new paragraph (e)(8)(i)(*d*).

b. By adding a new paragraph (e)(8)(i)(*e*).

c. By removing the existing paragraph (e)(8)(ii)(*c*) and adding a new paragraph (e)(8)(ii)(*c*).

d. By removing the existing paragraph (e)(8)(v)(*c*) and adding a new paragraph (e)(8)(v)(*c*).

**§ 199.10 Basic program benefits.**

* * * * *

(e) * * *

(8) * * *

(i) * * *

(*d*) Reconstructive breast surgery following a medically necessary mastectomy performed for the treatment of carcinoma, fibrocystic disease, other nonmalignant tumors, or traumatic injuries.

(*e*) Generally, benefits are limited to those cosmetic, reconstructive and/or plastic surgery procedures performed no later than December 31 of the year following the year in which the related accidental injury or surgical trauma occurred, except for authorized post-mastectomy breast reconstruction which may be delayed up to three (3) years post mastectomy. Also, special consideration for exception will be given to cases involving children who may require a growth period.

(ii) * * *

(*c*) In addition to whether or not they would otherwise qualify for benefits under paragraph (e)(8)(i) of this section, the breast augmentation mammoplasty (except as specifically authorized in (e)(8)(i)(*d*) of this section), surgical insertion of prosthetic testicles and the penile implant procedure are specifically excluded.

* * * * *

(v) * * *

(*c*) Augmentation mammoplasties, except for those performed as a part of post-mastectomy breast reconstruction as specifically authorized in (e)(8)(i)(*d*) of this section.

* * * * *

(10 U.S.C. 1086, 5 U.S.C. 301)

M. S. Healy,

*OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.*

November 5, 1981.

[FR Doc. 81–32551 Filed 11–9–81; 8:45 am]

BILLING CODE 3810–01–M

---

## Corps of Engineers, Department of the Army

## 33 CFR Parts 257, 265, 266, 305, 380, and 384

**[ER 1105–2–32; ER 1105–2–81; ER 1105–2–82; ER 1105–2–460; ER 1105–2–800; ER 1105–2–811]**

## Internal Water Resources Planning; Cancellation of Regulations

**AGENCY:** Army Corps of Engineers, DOD.

**ACTION:** Final rule; revocation.

**SUMMARY:** On March 27, 1981, the Civil Works Planning Division, Office of the Chief of Engineers completed an audit of all its internal water resources planning regulations as a first phase of a Regulation Reform Action Program (RRAP). The objectives of RRAP are to streamline and consolidate planning guidance. As a result of the work accomplished in Phase II, the US Army Corps of Engineers, DOD hereby gives notice that its regulations covering approval of Phase I general design memoranda, planning assistance, project deauthorization, cultural resources, public involvement policies, and A–95 coordination are revoked and removed.

**EFFECTIVE DATE:** September 30, 1981.

**FOR FURTHER INFORMATION CONTACT:** Dr. James F. Johnson, Planning Division, Directorate of Civil Works, US Army Corps of Engineers, HQ, USACE (DAEN-CWP), WASH, DC 20314, telephone (202) 272–0146.

**SUPPLEMENTARY INFORMATION:**

*33 CFR Part 257, Approval of Phase I General Design Memoranda,* delegates authority for approval. The Phase I General Design Memorandum has been discontinued as a reporting requirement except when specifically authorized by Congress. An engineer regulation on approval authority is no longer required.

*33 CFR Part 265, Planning Assistance to States,* provides guidance for implementation of section 22, Pub. L. 93–251. This regulation is no longer required. The programs that provide planning assistance to States will be continued through the normal budgetary process.

*33 CFR Part 266, Project Deauthorization Review Program,* provides guidance for implementation of section 12, Pub. L. 93–251. This regulation is no longer required. The annual reporting requirement for division commanders to submit recommendations to Commander, USACE will be reestablished in an abbreviated Form in FY 1982.

*33 CFR Part 305, Identification and Administration of Cultural Resources,* provides detailed procedures for identification, preservation, and mitigation of losses of cultural resources related to water resources development. This level of detail has been determined inappropriate as directive guidance. A new regulation, which will contain a minimum of directive guidance and which will be result-oriented, will be issued in FY 1982. Pending the issuance of the new regulation, FOAs shall continue to comply with the laws and executive orders on cultural resources matters.

*33 CFR Part 380, Public Involvement: General Policies,* establishes general policy for public involvement in Civil Works planning. General policies on public involvement are contained in the Water Resources Council Principles and Standards for Water and Related Land Resources (18 CFR Part 711). Since the WRC rule is applicable to Corps feasibility studies, this regulation is no longer required.

*33 CFR Part 384, A–95 Clearinghouse Coordination,* provides procedural guidance for coordinating planning activities with state and areawide clearinghouses. Since OMB Circular A–95 contains substantial guidance on coordination with A–95 Clearinghouses, and since Part II of the Circular is applicable to Corps planning activities, FOAs will use the Circular directly in determining appropriate coordination to meet the requirements and intent of the OMB guidance. This regulation is no longer required.

The authority citations for these removed parts are as follows:

For Part 257:

(R.S. 161; 5 U.S.C. 301)

For Part 265:

(Sec. 22, Pub. L. 93–251, Water Resources Development Act of 1974 (88 Stat. 20))

For Part 266:

(Sec 22, Pub. L. 93–251, Water Resources Development Act of 1974 (88 Stat. 16))

For Part 305:

(Pub. L. 93–291) Preservation of Historic and Archeological Data (88 Stat. 174); Pub. L. 89–655, National Historic Preservation Act of 1966 (80 Stat. 915))

For Part 380:

(Water Resources Council, Principles and Standards for Planning Water and Related Land Resources, (18 FR 24778, Sept. 10, 1973))

For Part 384:

(Office of Management and Budget Circular A–95 (revised) dated Jan. 2, 1976, (41 FR 2052, Jan. 13, 1976))

## PART 257—APPROVAL OF PHASE I GENERAL DESIGN MEMORANDA [RESERVED]

## PART 265—PLANNING ASSISTANCE TO STATES [RESERVED]

## PART 266—PROJECT DEAUTHORIZATION REVIEW PROGRAM [RESERVED]

## PART 305—IDENTIFICATION AND ADMINISTRATION OF CULTURAL RESOURCES [RESERVED]

## PART 380—PUBLIC INVOLVEMENT: GENERAL POLICIES [RESERVED]

## PART 384—A-95 CLEARINGHOUSE COORDINATION [RESERVED]

Therefore, 33 CFR Parts 257, 265, 266, 305, 380 and 384 are hereby removed and reserved.

Dated: October 28, 1981.

For the Chief of Engineers.

**Richard T. Robinson,**

*Colonel, Corps of Engineers, Executive Director, Engineer Staff.*

[FR Doc. 81–32584 Filed 11–9–81; 8:45 am]

BILLING CODE 3710–92–M

---

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[A–4–FRL–1963–5]

### Approval and Promulgation of Implementation Plans; Alabama: Prevention of Significant Deterioration Regulations

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** This notice gives approval to Alabama's prevention of significant deterioration (PSD) regulations, which were proposed for approval on July 22, 1981 (46 FR 37723). Such regulations were required of all States by EPA's promulgation of revised PSD regulations on August 7, 1980 (45 FR 52676). Alabama's regulations comply with the latest guidance issued by EPA to assist States in preparing State implementation plan (SIP) revisions for PSD.

**EFFECTIVE DATE:** December 10, 1981.

**ADDRESSES:** Copies of the materials submitted by Alabama may be examined during normal business hours at the following locations:

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

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005.

**FOR FURTHER INFORMATION CONTACT:** W. W. Jones, EPA Region IV, Air Programs Branch, at the above listed address and phone 404/881–3286 or FTS 257–3286.

**SUPPLEMENTARY INFORMATION:** On December 5, 1974, EPA published regulations under the 1970 version of the Clean Air Act for the prevention of significant air quality deterioration (PSD). These regulations established a program for protecting areas with air quality cleaner than the national ambient air quality standards (NAAQS). The Clean Air Act Amendments of 1977 changed the 1970 Act and EPA's regulations in many respects, particularly with regard to PSD. In addition to mandating certain immediately effective changes in EPA's PSD regulations, the new Clean Air Act, in sections 160–169, contains comprehensive new PSD requirements. These are to be incorporated by States into their implementation plans. On June 19, 1978 (43 FR 26380), EPA promulgated further guidance. On August 7, 1980 (45 FR 52676) EPA promulgated the latest guidance to assist States in preparing State implementation plan (SIP) revisions meeting the new requirements. The State has complied with these requirements by adopting additions to Chapter 16 of the Alabama Air Pollution Control Commission's Rules and Regulations; these additions were submitted to EPA for approval as a SIP revision on January 29, 1981. After thorough review by EPA, the Alabama PSD regulations have been determined to be equivalent to EPA's PSD regulations. In addition, the State has full delegation of authority under these same regulations to carry out the PSD program in Alabama.

Approval of Alabama's PSD regulations was proposed on July 22, 1981 (46 FR 37723); no comments were received in response.

Action

EPA is today approving the Alabama submittal as satisfying the requirements of an acceptable plan for implementing PSD.

Under section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of this revision is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before January 11, 1982. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it merely ratifies State actions and imposes no new burden on sources.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

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

(Secs. 110 and 161, Clean Air Act (42 U.S.C. 7410 and 7471))

Dated: November 3, 1981.

**Anne M. Gorsuch,**

*Administrator.*

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

### Subpart B—Alabama

1. Section 52.50, is amended by adding paragraph (c)(32) to read as follows:

**§ 52.50 Identification of plan.**

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(32) Regulations providing for prevention of significant deterioration (additions to Chapter 16 of the Alabama regulations), submitted on January 29, 1981, by the Alabama Air Pollution Control Commission.

**§ 52.60 [Amended]**

2. In § 52.60, *Significant deterioration of air quality*, paragraphs (a) and (b) are removed and reserved.

[FR Doc. 81-32488 Filed 11-9-81; 8:45 am]
BILLING CODE 6560-38-M

---

**40 CFR Part 52**

**[A-7-FRL-1958-3]**

## Approval and Promulgation of Implementation Plans; State of Missouri

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final rulemaking.

**SUMMARY:** In order to satisfy the requirements of Part D of the Clean Air Act, as amended, the State of Missouri submitted revisions to its State Implementation Plan (SIP) on February 12, 1981. These revisions addressed two conditions previously promulgated by EPA. One of these conditions required the East-West Gateway Coordinating Council (EWGCC) to complete an analysis of alternative transportation measures and to secure commitments from responsible agencies to specific transportation strategies which will achieve emission reductions for motor vehicle-related pollutants in the St. Louis nonattainment area. The other condition required EWGCC to provide the results of the requisite carbon monoxide (CO) dispersion model.

On July 10, 1981, EPA published a notice proposing to approve the state's submission. One commentor responded to the notice. EPA is taking final action today to approve these revisions to the Missouri SIP.

**EFFECTIVE DATE:** This promulgation is effective December 10, 1981.

**ADDRESSES:** Copies of the state submission, the EPA-prepared technical evaluation and the comments received, are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Air, Noise and Radiation Branch, 324 East 11th Street, Kansas City, Missouri 64106; Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460; Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101; East-West Gateway Coordinating Council, 112 North Fourth Street, St. Louis, Missouri 63102. A copy of the state submission is also available at the Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Wayne G. Leidwanger at (816) 374-3791 (FTS 758-3791).

**SUPPLEMENTARY INFORMATION:** On April 9, 1980, EPA conditionally approved certain elements of Missouri's SIP with regard to the requirements of Part D of the Clean Air Act, as amended. The reader is referred to the Federal Register notice published on that date (45 FR 24140) for a detailed discussion of that action. In the April 9 rulemaking, EPA approved an extension until 1987 for attainment of the carbon monoxide (CO) and ozone standards in the St. Louis area. As a result, the State will be required to submit a SIP revision in 1982 which demonstrates attainment of these standards by 1987. This 1982 SIP revision is in addition to the submission required to meet the April 9 conditions on approval of the SIP.

Section 172(b)(11)(C) requires the SIP to identify specific measures necessary for attainment of the CO and ozone air quality standards, as necessary, by 1987. This includes transportation control measures as specified in section 110(a)(3)(D). One of the conditions promulgated by EPA in the April 9, 1980, action required EWGCC to complete an analysis of alternative transportation measures and to secure commitments from responsible agencies to specific transportation strategies which will achieve the emission reductions of 6.45% specified in the SIP for the St. Louis nonattainment area. The other condition required EWGCC to provide the results of the requisite CO dispersion modeling committed to in the approved section 175 (transportation control planning grant) work plan. These conditions were due January 31, 1981.

On February 12, 1981, a package of transportation measures and commitments, as well as a draft report containing the results of the CO dispersion modeling, were submitted to EPA. (The final CO dispersion modeling report was submitted on April 28, 1981, and is substantially similar to the draft.) For a further discussion of the submission, the reader should consult EPA's proposed rulemaking of July 10, 1981 (46 FR 35686). One comment was received in response to the proposed rulemaking and a detailed response is included in the technical support document.

Among the transportation projects which EWGCC submitted were traffic flow improvements including traffic signal modifications, intersection and interchange improvements, construction of new highway facilities, widening of existing roads and highways, resurfacing of existing roads, and

railroad grade separations. The submission provides an estimate of the average vehicle speed increases that will result from these traffic flow improvement projects. Based upon these projected speed increases, the submission provides an evaluation of the overall resultant emission reductions. In the proposed rulemaking of July 10, EPA noted that EWGCC had not made a project-specific determination of emission benefits. Subsequently, EWGCC has agreed to submit the appropriate analyses as part of the 1982 SIP revision. A more detailed discussion of this agreement has been incorporated into the technical support document.

Action

EPA approves the overall demonstration of 6.5% reduction in emissions outlined in the February 12, 1981 SIP submission as meeting the two conditions, explained earlier in the present notice, on the 1979 SIP.

If the air quality benefits of these measures cannot be demonstrated adequately, other measures which demonstrate quantifiable air quality benefits must be provided for the 1982 SIP.

There are other conditions promulgated by EPA which must be addressed by the state before the Missouri SIP can be fully approved. Until all conditions are met, conditional approval of the SIP will continue.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it only approves state actions and imposes no additional substantive requirements which are not currently applicable under state law. Hence it is unlikely to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national economy.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Note.—Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. The reason for this determination is that it only approves a state action. It imposes no new requirements.

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

(Secs. 110 and 172, Clean Air Act, as amended)

Dated: November 3, 1981.

**Anne M. Gorsuch,**

*Administrator.*

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

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

### Subpart AA—Missouri

1. Section 52.1320 is amended by adding paragraph (c)(31) as follows:

**§ 52.1320 Identification of plan.**

* * * * *

(c) The plan revisions listed below were submitted on the dates specified:

* * * * *

(31) A report from the East-West Gateway Coordinating Council outlining commitments to transportation control measures, an analysis of those measures, and the results of the carbon monoxide dispersion modeling, submitted on February 12 and April 28, 1981, is approved as meeting the applicable condition on the SIP.

**§ 52.1324 [Amended]**

2. Section 52.1324 is amended by removing paragraphs (c)(1) and (c)(1)(iii) (A) and (B).

[FR Doc. 81-32489 Filed 11-9-81; 8:45 am]

BILLING CODE 6560-38-M

---

**40 CFR Part 120**

**[FRL 1935-6]**

## Water Quality Standards; Welch Creek, North Carolina; Withdrawal of Regulation

**AGENCY:** Environmental Protection Agency.

**ACTION:** Withdrawal of a rule.

**SUMMARY:** EPA is withdrawing a rule that established Federal water quality standards for a segment of Welch Creek located near Plymouth, North Carolina. EPA believes that revisions to North Carolina water quality standards which reinstate the prior State regulation make the Federally promulgated rule unnecessary.

**DATE:** This withdrawal is effective December 10, 1981.

**FOR FURTHER INFORMATION CONTACT:**
Mr. R. F. McGhee, EPA, Region IV, 345 Courtland Street, Atlanta, GA 30365, (404) 881-4793.

**SUPPLEMENTARY INFORMATION:**

Background

On October 16, 1979, EPA proposed a dissolved oxygen criterion for Welch Creek (44 FR 59565). The Agency proposed to nullify the zero dissolved oxygen criterion assigned by the State of North Carolina to the subject segment of Welch Creek and, in effect, reestablish the State's previous criterion of 5 mg/l average, 4 mg/l minimum (with the provision that swamp waters may have lower values if caused by natural conditions). The final rule was promulgated on April 1, 1980 (45 FR 21246).

On June 12, 1980, the North Carolina Division of Environmental Management reinstated the Statewide oxygen criterion (average of 5 mg/l-minimum 4 mg/l) for Welch Creek. This revision was approved by EPA Region IV on August 18, 1980. Accordingly EPA is withdrawing 40 CFR 120.43, the rule that reinstated the oxygen criterion for Welch Creek because it is now duplicative of the State criterion.

Availability of Record

The administrative record for the consideration of North Carolina's revised water quality standards is available for public inspection and copying at the Environmental Protection Agency, Region IV Office, Water Division, 345 Courtland Street, N.E. Atlanta, Georgia 30308 during normal weekday business hours of 8:00 a.m. to 4:30 p.m. The approved North Carolina water quality standards and the State's administrative record is available for inspection and copying from the Criteria and Standards Division (WH-585), 401 M Street, S.W., Washington, D.C. 20460 in Room 2818 of the Mall.

Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulatory action is not major because it withdraws a Federal regulation that now duplicates a State regulation. It imposes no new regulatory requirements.

This notice was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

### Administrative Procedure

Because the State of North Carolina has promulgated identical standards to those which are withdrawn by this regulatory action, the Agency has determined that notice and public procedure on this action are unnecessary. See 5 U.S.C. 553(b)(B).

(Sec. 303 (33 U.S.C. 1313), Clean Water Act (Pub. L. 92–500, as amended (33 U.S.C. 1251 *et seq.*))

Dated: October 23, 1981.

Anne M. Gorsuch,
*Administrator.*

## PART 120—WATER QUALITY STANDARDS

### § 120.43 North Carolina [Reserved]

Section 120.43 of Part 120 of Chapter I, Title 40 of the Code of Federal Regulations is removed and reserved.

[FR Doc. 81–32514 Filed 11–9–81; 8:45 am]
BILLING CODE 6560–38–M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 15

**[Docket No. 20990; RM–1617; RM–2152; RM–2223; FCC 81–509]**

## Radio Frequency Devices; Amendment To Provide for Remote Control and Security Devices

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This Order expands the present low power rules for radio control and security alarm devices. The new rules are in response to industry petition requesting greater flexibility of the Commission's rules for operation of low power communication devices in remote control and security applications. The new rules will provide for the following control and security alarm applications: radio control door opener, camera shutter, remote operation of lights, radio control of a fire, burglar, security, or other emergency alarm systems, and others.

**DATES:** Effective: December 10, 1981.

**ADDRESS:** Federal Communications Commission.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sydney P. Bradfield, Office of Science and Technology, RF Devices Branch, Washington, DC 20554, (202) 653–8247, Room 8313.

**SUPPLEMENTARY INFORMATION:**

### Report and Order

Adopted: October 22, 1981.

Released: November 3, 1981.

1. A Notice of Proposed Rule Making (NPRM) in this proceeding was adopted on November 10, 1976 and released on November 24, 1976.[1] This NPRM specified that comments be submitted on or before December 27, 1976, and reply comments on or before January 6, 1977. These dates were extended several times in response to numerous requests for additional time to file comments. The final date for reply comments was extended to and including September 28, 1977 by Order of the Commission on July 20, 1977. The Commission received many comments in response to the NPRM largely from the Security and Garage Door Opener Industries.[2]

2. For the reasons discussed herein, this Report and Order adopts new regulations for radio control devices. A major application of radio control is found in wireless security alarm systems. Accordingly, the new rules provide for radio control of a security alarm in addition to the numerous other applications for radio control such as the opening and closing of a door or camera shutter, remote operation of lights, etc.

### Background of This Proceeding

3. The NPRM in this proceeding was issued in response to three petitions which requested amendment of Part 15 of the FCC Rules to allow operation of limited range, wireless security devices.[3] The Security Equipment Industry Association (SEIA) and Stanley Works petitions basically stated that the present Part 15 rules do not provide for the requirements of a wireless security system which is typically composed of transmitters located at fire or burglar sensors around a home or business. When activated during an emergency condition, these transmitters emit an encoded radio frequency signal to a central receiver. The receiver extracts information from the signal about the type of emergency and initiates an alarm and/or an automatic telephone dialer. Personal alert transmitters carried by individuals can also be a part of this security system. Use of transmitters for radio control purposes reduces the cost of a security system since the costly installation of wiring is avoided. Radio Control also makes the operation of personal alert systems possible.

4. The petition filed by the Property Protection Service of America was quite different from the other two. This petition requested that the Commission provide for a system, called "Alarmtrace", which is composed of a miniaturized transmitter hidden within a valuable to be protected such as a stack of bank bills. If the valuable is displaced, the transmitter is activated and a continuous signal is emitted for 4 to 6 hours so that the criminal can be tracked and apprehended. Considering that the Commission has recently considered and authorized tracking systems in a separate proceeding, additional special provisions for the "Alarmtrace" will not be considered herein and the Property Protection Service of America petition is accordingly denied.[4]

5. The Commission's Rules in Part 15 Subpart D allow operation of general application low power communication devices (transmitters) without an individual license subject to certain conditions. For transmitters operating above 70 MHz, these conditions are set out in § 15.120 which specifies an emission limit and a restriction of the transmission time to a duration of one (1) second with a mandatory silent period of 30 seconds between transmissions. This duty cycle requirement was imposed to reduce the interference potential since transmitters operated continuously have a higher potential for causing interference to licensed services.

6. In its petitions, the wireless security alarm industry has pointed out that the duty cycle provision presents problems for security radio control transmitters. In security alarm systems, reliability is hampered because these systems must maintain a silent period of 30 seconds between transmissions. If a transmission was not received then the transmitter must wait 30 seconds before another transmission can be made. Further, expensive special circuitry must be incorporated into these transmitters to guarantee an off time of 30 seconds between transmissions. The problem is particularly acute in the case of medical alert systems used in health care and other kinds of portable emergency transmitters. Medical alert devices are generally worn by the sick, handicapped, or elderly in their homes to alert relatives or medical personnel of an emergency condition. The transmitters are activated either manually or automatically, and send a signal to a central receiver for initiation

[1] 41 FR 52705; 61 FCC 2d 10, Page 1174.

[2] A list of parties who filed comments in this proceeding is attached as Appendix A.

[3] RM–1617, filed by the Property Protection Service of America; RM–2152, filed by the Security Equipment Industry Association (SEIA); RM–2223, filed by Stanley Works.

[4] Report and Order in PR Docket 80–9 adopted by the Commission January 8, 1981 (FCC 81–1).

of an alarm or activation of an automatic telephone dialer. The difficulty is that during the one second permitted for transmission, the transmitter may be in a bad position or other conditions may exist where the signal does not get through. The Commission has issued waivers of the duty cycle restriction for certain medical alert systems during the pendency of this proceeding.[5]

7. The Commission, under Part 15 Subpart E, provides for the radio control operation of a garage door.[6] Many individuals and companies have requested that radio control devices used for other purposes, such as turning on lights remotely, operating a camera shutter, etc., be allowed to operate under the standards for garage door openers. These standards permit transmission for each activation of the transmit switch at a higher signal level than is currently allowed under § 15.120 which governs operation above 70 MHz generally. SEIA, supported by Stanley Works, asked that security systems also be allowed to operate at the emission levels of garage door openers to improve reliability. To further improve reliability, SEIA also requested provision in the rules so that periodic self-testing or supervision of security systems could be performed.

8. The Commission issued an NPRM in response to the petitions which proposed to delete § 15.120 and the existing provisions for garage door openers and to establish a set of requirements for radio control and security alarm devices. The NPRM proposed among other things specific bands for use by these devices and prohibited non-intermittent emissions such as voice, data, and periodic transmissions at regular predetermined intervals.

**Comments in Response to NPRM**

9. A total of 44 parties filed comments and 7 parties filed reply comments in this proceeding. The majority of the commenters, especially those representing the security and garage door opener industries, accused the Commission of being overly conservative and much too stringent in the proposals. Manufacturers of garage door openers commenting in this proceeding unanimously objected to the proposed reduction of available frequencies and emission levels from the existing requirements for garage door openers so that all radio control applications including security could be accommodated. For the most part, commenters from the security device industry alleged that the proposed regulations are not receptive to the need of the industry to deliver a low-cost means of protection to the public. While we acknowledge that the proposal may have been more conservative than the present rules (with exception of the duty cycle restriction), we felt it was justified at the time because of the expected new uses and proliferation of radiocontrol devices. Considering the comments, however, and the report and letters from NTIA (discussed in paragraph 13 below), we now believe the proposals can be relaxed to conform to the present technical requirements. There are a few exceptions, which are discussed below. The primary issues of the comments deal with emission limits, operating frequency bands, the requirement for intermittent operation and measurement of emission. These significant points in the comments are addressed in the following paragraphs along with the Commission's response to them.

**Emission Limits**

10. In the NPRM, the Commission proposed a maximum level of radiation on the fundamental frequency for each of the 10 frequency bands proposed for radio control and security alarm devices. The majority of the commenters objected to the proposed levels, particularly those levels in the 200–400 MHz band, by arguing that this consists of an effective reduction in field strength over that now in the rules. The contention is that the range of radio control equipment would be reduced to an unusable value. SEIA requests increased transmitter radiation levels over that proposed in the NPRM since the threat of interference is small due to the intermittent nature of the transmissions and signal attenuation from obstructing objects such as walls. The majority of the security industry commenters also argue that the reliability of the equipment would be threatened if the reduced radiation levels proposed are adopted. The garage door opener commenters state that there is no need to reduce the radiation emission levels of garage door opener transmitters currently allowed by the Rules since no harmful interference has occurred. The Door & Operator Dealers

[5] *Order Granting Waiver in Part* adopted March 27, 1980 (FCC 80–149) in response to petition for waiver filed by American Microlert, Inc.; *Order Waiving Duty Cycle for Invalid Security Alert System* (January 17, 1979, FCC 79–17).

[6] 47 CFR 15.181–15.187. The present rules for garage door openers were adopted in the Second Report and Order of FCC Docket No. 15657 (36 FR 6504, April 6, 1971), subsequently revised in a Memorandum Opinion and Order (36 FR 12905, July 9, 1971).

of America (DODA) and most of the garage door opener manufacturers who commented allege that the range restriction which would be brought about by the proposed radiation levels may render garage door openers useless as the current range and radiation standards are minimally adequate.

11. It should be made clear that devices which are permitted to operate without an individual license under Part 15, must operate on a secondary basis to licensed radio communication services. That is, Part 15 equipment may not cause harmful interference to licensed or government stations, and must accept any interference received. In setting standards for Part 15 devices, the viability of the device is secondary when it is determined that exceeding a certain level of emissions poses a high potential for interference. The radiated emissions levels for garage door opener transmitters were set to minimize the potential of interference to licensed communication services while providing for such operation.

12. Although the Commission proposed relatively higher levels of radiation above 900 MHz to encourage utilization of the lesser-used microwave frequencies, the security and door opener industries alleged that operation in the microwave region is not economically feasible at this time. Stanley Works supports the Commission's reasoning; however, Stanley believes that technology has not improved to the point to make systems operating above 900 MHz competitive in cost. According to the burglar alarm industry, cost is an extremely significant consideration because affordable security systems are needed for the general public.

13. The Office of Telecommunications Policy (OTP), now the National Telecommunications and Information Administration (NTIA), submitted a report dated November 1977 which recommended that the existing field strength emission limits for garage door openers be applied to all radio control and security devices with the exception of periodic emissions which should meet the levels set out in § 15.120.[7] In a letter dated May 22, 1981, the Commission was notified that NTIA still views the technical comments made in the OT Technical Memorandum 77–244 to be valid.[8] In view of the NTIA position and the comments, the Commission will permit all radio control devices including those in security applications to radiate on the fundamental frequency the field strength currently allowed for garage door openers. For periodic transmissions at regular predetermined intervals, the Commission agrees with NTIA that such emissions should be limited to lower levels and is adopting separate provisions for such devices in line with § 15.120. It is evident that periodic emissions have a greater potential for interference than do the intermittent non-regular signals transmitted in instances such as a security alarm; hence lower emission levels are called for.

**Spurious and Harmonic Emissions**

14. In the case of spurious and harmonic emissions, most of the comments were opposed to establishing limits. The existing rules for garage door openers and also § 15.120 do not specify a different set of limits for spurious and harmonic emissions. Those rules require that all emissions including the fundamental along with all spurious and harmonic meet one table of limits. The Door Operator and Remote Control Manufacturers Association (DORCMA) opposes any restriction of harmonic radiation below the current levels which it says already assures non-interference. The Commission in the NPRM proposed that out-of-band emissions be 20 dB down from the maximum allowed fundamental emission. Some manufacturers point out in the comments that this proposed out of band limit for spurious and harmonic emissions will require filtering of the type of oscillator used in these radio control devices generating extra cost with no benefit of interference reduction. It was also pointed out in the comments that the proposed out of band levels for the transmitter are actually lower than the proposed limits for receiver radiation. This situation was labelled as unfair since the receiver will operate continuously resulting in a greater interference potential as compared to the intermittent transmitter. The Communications Division of the Electronic Industries Association (EIA/CD) recommends that out of band emissions be limited to the level allowed for FM and TV receivers. OTP/NTIA recommended that out of band emissions meet the levels currently specified under § 15.120 for periodic transmissions. Each of these set of limits

[7] U.S. Department of Commerce/Office of Telecommunications, OT Technical Memorandum 77–244, "An Analysis of Remote Control and Security Devices in the 225–400 MHz Band", November 1977. Hereafter this memorandum will be referred to as OTP/NTIA recommendation.

[8] Letter from Leo A. Buss, Director, Office of Spectrum Plans and Policies, NTIA, to Robert L. Cutts, Chief, Spectrum Management Division, FCC; May 22, 1981. Hereafter this letter will be referred to as the NTIA letter.

allow higher levels of emissions for higher order harmonics, which only serve to pollute the spectrum further.

15. With the expected proliferation of low power transmitters brought about by expanding these Rules to include new uses of radio control devices, the Commission deems it necessary to place a limit on spurious and harmonic emissions. A limit that is 20 dB below the maximum allowed level on the fundamental is not an overly strict regulation for out of band spurious and harmonic emissions. For example, field disturbance sensors operating under Part 15 are required to limit spurious and harmonic emissions to a value that is 40 dB below the maximum allowed level on the fundamental. In addition, since the Commission is allowing control devices to operate on any frequency above 70 MHz with the exclusion of certain restricted bands (see discussion regarding bands in paragraphs 26–30), tighter control is needed on spurious and harmonic emissions that have a potential for causing interference. A radiation level below 15 $\mu$V/m at 3 meters will be considered to meet the transmitter and receiver emission requirement in the restricted bands on frequencies below 1000 MHz. This is a relaxation from the existing restricted band limit of 15 $\mu$V/m at 1 meter for garage door opener devices.

**Receiver Emission**

16. Most of the comments from the security and garage door opener industries were opposed to the Commission's proposal to reduce the radiated emission requirement for receivers associated with control devices in the NPRM. DORCMA states that emissions from garage door opener receivers are significantly attenuated by the garage building. Most of the comments state that existing levels for receiver emissions are sufficient to avoid harmful interference.

17. The Commission is very concerned about the emissions from radio control receivers because most receivers used in control applications will be of the superregenerative type. Such receivers emit RF energy over a wide band of frequencies and have the potential for causing harmful interference to radio communications. In addition, these receivers emit a greater level of RF energy than other types of receivers. This and the fact that the receivers are on continuously was recognized when special, more restrictive requirements were imposed on door opener control receivers in § 15.63(d).[9] With the additional proliferation of such receivers in other control applications such as security alarms, the Commission proposed in the NPRM an even greater restriction of radiation.

18. The American Radio Relay League (ARRL) and Chester L. Smith, P.E. commented against the use of superregenerative receivers since those receivers emit a much higher level of radiation than other types of receivers such as superheterodyne, direct conversion, or TRF (Tuned Radio Frequency) receivers. OTP/NTIA and Transcience Industries, Inc. agree that limits on receivers should be tightened; however, Transcience objects to the banning of superregenerative receivers. The garage door opener industry has used superregenerative receivers because receivers of that type are very inexpensive due to a relatively small number of parts needed for construction and exhibit good receiver sensitivity. SEIA and Rollins, among others, state that interference potential is the central issue and that a reduction in receiver limits below those for garage door opener control receivers is unnecessary due to a lack of interference problems in the past.

19. Emissions from any receiver are completely undesired, serve no useful purpose and may be a source of harmful interference to radio communications. The Commission's radiation limits for receivers are designed to minimize this interference potential. Limits are established based on a number of closely interrelated factors: expected proliferation of the receiver, the susceptibility of the device that will receive the interference, location or distance separating the interfering and susceptible device, and frequency spectra of the radiating receiver.

20. Due to the expected proliferation of superregenerative receivers used in radio control applications generally, such receivers should meet more stringent limits as compared to other receivers. The Commission is persuaded by the comments that the existing relatively tighter emission levels in § 15.63(d) for garage door opener receivers are adequate for control and security alarm receivers and further restriction as proposed in the NPRM does not seem warranted at this time. The Commission's intent is to permit manufacturers to use whatever receiver design they find cost effective and at the same time place minimum standards on their operation to avoid interference.

[9] Footnote 6; 2nd Report and Order and Memorandum Opinion and Order of Docket 15657.

**Measurement of Emission**

21. In the NPRM, the Commission proposed to require peak measurements of the emission from both the transmitter and receiver of a radio control device and specified emission levels in terms of peak. The Commission also proposed that the measurement procedure T–7001 [10] would be modified to accommodate peak measurements.

22. However, almost all commenters who responded to this issue, particularly SEIA, DORCMA, Stanley Works, and OTP/NTIA, objected to limits in terms of peak and urged the Commission to retain average emission limits. OTP/NTIA in particular states that use of the average limit results in more useful parameters for analysis purposes and is more indicative of interference potential.

23. SEIA and Rollins Protective Services (RPS) argue that a change to peak measurements should give rise to higher emission levels so that a reasonable correlation exists between the peak levels established and the average levels previously allowed. Many of the commenters state that the proposed levels are much more restrictive than the Commission's intent in the NPRM since measured values using a peak detector are much higher than average measured levels. ADEMCO favors peak measurements but states that the measurement procedure could yield any number of different values. ADEMCO contends that a clear relationship exists between peak and average values; however, a measurement bandwidth must be defined.

24. The Commission proposed going to peak levels so that a peak-reading spectrum analyzer which is widely available could be utilized in taking measurements. However, since the comments were overwhelmingly in favor of retaining average limits, the Commission is persuaded to specify all emissions from both the receiver and transmitter in terms of average levels. Manufacturers will be given the option of using a spectrum analyzer in the measurement procedure if they can show correlation to an average reading instrument.

25. Only a few comments were submitted which proposed a detailed measurement procedure for control and security alarm devices. Most of the comments recommended that the existing measurement procedure (T–

[10] FCC Report No. T–7001, "Procedure for Measurement of the Level of RF Energy Emitted by a Radio Control for a Door Opener", October 1, 1970.

7001) be retained. The Consumer Electronics Group of the Electronic Industries Association (EIA/CEG) suggests a horizontal distance of 3 meters between the unit and measuring antenna. The Commission agrees with this and modifies the measurement procedure accordingly. In addition, all emission limits are to be specified at a distance of 3 meters. Gould Inc. states that measurement heights should reflect a typical installation height or a standard height. In the measurement procedure in Appendix C, a standard measurement height is specified for all control devices and associated receivers since actual installation heights can vary widely with the different types of control applications. The FCC measurement procedure for determining compliance of a control or security alarm device is attached to this Report and Order as Appendix C. The measurement procedure is to be published as FCC Measurement Procedure MP 1 and is entitled "FCC Methods of Measurements For Determining Compliance of Radio Control and Security Alarm Devices and Associated Receivers". The procedure is basically a revision to the existing procedure T-7001.

**Frequency Bands**

26. The security and garage door opener industries complain that the bands proposed by the Commission in the NPRM for remote control and security alarm devices are totally inadequate. The comments from these industries bascially state that mutual interference will result due to overcrowding of control devices especially garage door openers and security alarm devices into small frequency bands. DODA contends that deletion of frequencies for garage door openers will conflict with the growing need for openers in high density residential areas that require off-street parking. In addition, EIA/CD believes that jamming of security alarm devices by intruders could occur due to the band limitations. The Central Station Electrical Protection Association (CSEPA), which is a national association of operators of central station type alarm systems, recommends that some frequency bands be reserved for security devices only.

27. Scientific Atlanta and others suggest that the Commission keep its current practice of allowing operation on any frequency above 70 MHz with no restrictions to specific bands. All of the garage door opener manufacturers commenting are in favor of retaining the existing frequencies available for garage door openers. Both the security alarm and garage door opener industries note that the record of non-interference performance is good. Thus it is argued that the proposed reduction in available frequencies is unwarranted.

28. A few comments were in favor of the proposed more restrictive frequency bands for control equipment. EIA/CEG, which represents all major U.S. manufacturers of TV receivers and some manufacturers of FM broadcast receivers, supports the Commission's proposals in the NPRM especially the proposal to limit available frequencies of operation to specific bands. However, ARRL objects to the number of proposed frequency bands which are within the spectrum assigned to the Amateur Radio Service.

29. OTP/NTIA states in its report that the Commission was much too restrictive in the proposal. OTP/NTIA contends that from an interference reduction standpoint it would be better for these radio control devices to be spread throughout the frequency spectrum above 70 MHz. According to OTP/NTIA, in order to reduce the interference potential, caused by the cumulative effects of many control devices in a given area, it is more desirable to have such devices operate over a wide band as opposed to the relatively narrow bands proposed. However, OTP/NTIA recommends that operation of control devices be prohibited in certain sensitive frequency bands utilized by the government. In the 225 to 400 MHz band in which the study by OTP/NTIA was performed, 240 to 272 MHz and 328.6 to 335.4 MHz were recommended for exclusion from use by radio control equipment. In its May 1981 letter, NTIA has pointed out that the private sector does not have enough information concerning government use of the frequency spectrum. Manufacturers of radio control and security alarm devices must be made aware of the susceptibility issue and avoid frequency bands allocated for high powered government operation such as 420 to 450 MHz and 902 to 928 MHz, utilized for government radar operation. In this respect, NTIA strongly supports including Government allocations and footnotes in Part 2 of the FCC Rules. In addition, at NTIA's request, the Commission is including a provision (§ 15.204) in the new rules for control and security alarm equipment to bring this concern of susceptibility to the attention of manufacturers in this field and provide them with a means of obtaining information on government operations.

30. In light of the position by NTIA and the comments, the Commission is amenable to allowing radio control and security alarm devices to operate on any frequency above 70 MHz with the exception of certain frequency bands—similar to the restrictions in the persent garage door opener provisions. In addition, the Commission will allow the 40.66 to 40.7 MHz band to be used by radio control devices as proposed in the NPRM. Because of the intermittent nature of emission, the potential for interference should be minimal. Also, by not restricting operation to a few small frequency bands for these devices; the susceptibility of a control or security device to intentional jamming and interference should be minimized.

**Bandwidth**

31. With respect to bandwidth considerations, many commenters from the security alarm and garage door opener organizations are opposed to the proposed restriction on transmitter bandwidth of 100 kHz. Mallard Manufacturing Corporation suggests expansion of 100 kHz to a bandwidth of at least 5 MHz since it is not possible to control transmitter emission to a 100 kHz bandwidth because of frequency drift. DORCMA sees no need to control transmitter bandwidth. OTP/NTIA suggests that the Commission allow wideband operation for radio control and security alarm devices for two reasons. First, a certain emission level spread over a wider frequency range will yield a lower level in any portion of the signal bandwidth. Secondly, according to OTP/NTIA, the performance of security devices will suffer as a result of bandwidth restrictions since wideband digitally encoded signals can give freedom from false alarm problems as well as reduce susceptibility to government operation. Comments filed by CSEPA and the National Burglar and Fire Alarm Association (NBFAA) propose relaxing the modulation bandwidth standard to 0.2% of center frequency.

32. The Commission is studying the issue of broadband or spread spectrum devices in a separate proceeding.[11] Accordingly, until the broadband issue has been thoroughly evaluated in that proceeding, the Commission feels that a restriction must be placed on signal bandwidth. In the NPRM, the Commission proposed a bandwidth of 5 MHz above 900 MHz which did not appear to be a controversial issue in the comments. Greater signal bandwidths can be accommodated in the higher frequencies and is allowed in the rules

[11] Notice of Inquiry in Gen. Docket 81-413 adopted June 30, 1981 (FCC 81-289).

adopted herein. These rules provide a gradual increase in bandwidth with frequency rather than a large abrupt change from 100 kHz to 5 MHz as had been proposed in the notice. In effect, the Commission is adopting a bandwidth requirement in line with that proposed by CSEPA and NBFAA. A bandwidth of 0.25% of center frequency is allowed for devices operating below 900 MHz and 0.5% of center frequency above 900 MHz. This bandwidth should be more than sufficient in providing for digitally encoded signals for control purposes and in reducing susceptibility to interfering signals which can cause false alarms. It must be noted that this is a signal bandwidth requirement and not a frequency drift requirement. Since we are allowing operation at any frequency above 70 MHz, frequency drift has less importance and no requirement for this is adopted except for the 40.66 to 40.7 MHz band. However, it must be remembered that signals from radio control systems must not drift into the excluded bands set out in the amended rules (Section 15.205(a)). In the case of the 40.66 to 40.7 MHz band, emission bandwidth must be contained within the band edges.

**Duty Cycle**

33. Microlert, Transcience, SEIA and others indicate in their comments that no duty cycle should be required in the case of manually operated emergency or personal alert transmitters. Transcience states that a spring return on/off switch is adequate and no time limit on transmission is needed. EIA/CD, Rollins, Scientific Atlanta and almost all other security alarm manufacturers and organizations recommend that transmissions be continuous as long as danger to person and property exists in order to increase reliability. In other cases, transmission duration may be limited to 5 seconds.

34. The security alarm industry has also indicated in the comments that periodic transmissions at regular predetermined intervals should be allowed for polling or testing purposes to insure system reliability. Polling assures that the security system is working properly by testing all remote transmitters and sensor battery condition, etc. Honeywell requests periodic transmission for supervision purposes in energy management systems with a relaxed duty cycle. Transcience states that one way timed audio verification should be allowed. OTP/NTIA recommends that the Commission provide for periodic transmissions but at a lower emission level.

35. Because alarms in emergency situations will occur very infrequently and reliability is very important at those times, the Commission will allow transmissions to be continuous during an emergency whether activated by a manual or automatic means. For general purpose manually operated radio control transmitters such as garage door openers, the Commission will henceforth require that a switch be used that will automatically deactivate the transmitter when released. And, in the case of a transmitter activated automatically for purposes other than emergencies, transmission must cease within 5 seconds after activation.

36. The Commission intends the new provisions for control and security alarm devices to be used for intermittent operation, and hence transmissions such as voice and data communications and signals emitted on a regular or continuous basis are prohibited. The prohibition against data transmission is not meant to disallow digital coding of signals for control purposes and this is clarified in the Rules. The Commission makes an exception in regards to the ban on periodic transmissions in the case of polling to check security system performance. By avoiding the use of wires in a security alarm system, the radio frequency transmission link between the radio control transmitters located at burglar or other security sensors and the central receiver in the home or business must be checked or polled periodically to guarantee that in the case of a true emergency the transmission will be received. If a transmission is not received during this periodic self-testing or polling process, the central receiver will activate an alarm or automatic telephone dialer to notify personnel that a problem exists in the security system. The Commission has been informally advised that Underwriters Laboratory (UL) will specify the acceptable rate of polling or self-testing in a wireless security system. In its further supplemental comments, SEIA states that a polling or monitoring rate of one transmission up to 5 seconds in length every 8 hours was found to be acceptable at a meeting sponsored by SEIA and attended by representatives of the security industry. With the lack of information on UL's position, the SEIA proposal of a five second transmission in any 8 hour period for polling will be allowed by the Commission. As for other applications for periodic operation, the Commission retains a provision in Subpart D of Part 15 similar to Section 15.120 but with a relaxed duty cycle and new limits on bandwidth and spurious/harmonic emissions.

**Summary and Conclusions**

37. The Commission believes that the new Rules set forth herein respond to the needs of the public and the control and security alarm industries yet still maintain control over the interference potential of these devices. Due to the rapid increase in crime in the United States and the attendant public concern, the Commission appriciates the desirability of low cost security alarm systems. And it agrees with the National Crime Prevention Association that affordable security alarm systems are important aids in crime prevention. However, it must be stressed that Part 15 was not established to provide reliable operation. Under Part 15, operation is on a suffrance basis to licensed radio communication services and government radio operation. In this connection, manufacturers and the public must be aware that devices operating without an individual license under Part 15 must not cause interference and also must accept any interference generated by operation of a licensed service. A label is required to be attached to the equipment to warn of this operation on a secondary basis. In addition, a non-interference requirement is set forth in § 15.203 of the amended rules for radio control and security alarm devices. This requirement basically states that operation of a control or security alarm device must cease if harmful interference occurs to a licensed radio service until the interference problem has been resolved. NTIA is concerned about susceptibility of control and security alarm equipment to high power government operation and recommends that manufacturers avoid frequencies that are used by high power radars, etc. The Commission also encourages manufacturers of control and security alarm devices to be aware of radio operation by both the government and the private sector and to avoid sensitive frequencies. Section 15.204 in the adopted rules warns manufacturers of receiver susceptibility to operation of government radio services and invites manufacturers to obtain information from NTIA on government operations. Accordingly, manufacturers can use this information in designing equipment and selecting frequencies for operation to minimize susceptibility. Manufacturers are also urged to reduce susceptibility of their devices by utilizing coding of control signals and this practice is highly recommended by the Commission. Certain frequency bands used by the Government for extremely important functions such as military

communications, satellite and radionavigation operations are restricted from use by control and security alarm equipment.

38. In the amended rules, the Commission has basically left the garage door opener provisions intact with a few revisions and has opened these provisions to other control applications such as security alarms. Due to the good record of certificated garage door openers, the Commission agrees with NTIA that the existing limits and available frequencies for garage door openers can be made available for all radio control and security use. The Commission is however excluding radio control toys from operating under these provisions since the operating range provided for by these emission limits is not needed in the case of toys and the bands available under § 15.117 have been sufficient in accommodating radio control toys. With the concurrence of the government users of the spectrum, the FCC has relaxed its original proposals, and the rules adopted herein should make available low cost security alarm systems to the public and should minimize the impact on existing industries such as the garage door opener industry. The Commission believes that the standards adopted herein are the minimum regulations necessary to avoid interference. This position is consistent with the Commission's objectives to allow industry to operate to the maximum extent possible in an unregulated competitive marketplace.

39. The rules as adopted are set out in Appendix B. The Commission will phase out the existing provisions for garage door openers and § 15.120. Sufficient time is given to manufacturers to dispose of existing stock and to obtain an FCC equipment authorization under the new provisions. We do not expect existing equipment to require much redesign to operate under the new standards for periodic operation in § 15.122 and the new requirements for control and security alarm devices in §§ 15.201 through 15.215, inclusive.

40. We are designating certification as the applicable equipment authorization procedure for radio control and security alarm devices. With the expected growth of new manufacturers in this area, it appears that the Commission must maintain the control of certification over the equipment marketed under the new rules until manufacturers have become aware of acceptable measurement practices to determine compliance with the technical standards. However, 18 months after the effective date of these rules, the Commission will evaluate the record of industry under certification and may consider an Order to place these devices under the less stringent verification program.[12] NTIA is aware of the Commission's move toward deregulation but recommends that manufacturers as a minimum submit a letter to the Commission confirming the verification of their products.[13]

41. Pursuant to the authority contained in sections 4(i), 302 and 303(r) of the Communications Act of 1934, as amended, it is ordered that effective December 10, 1981, Part 15 is amended as set out in Appendix B, attached. It is further ordered that this proceeding is hereby terminated.

42. For further information about this ORDER, contact Mr. Sydney P. Bradfield, Office of Science and Technology, Federal Communications Commission, Washington, D.C. 20554, phone 202–653–8247.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

## Appendix A

I. Comments in this proceeding regarding the Rules proposed for remote control and security devices were received from:

Mallard Manufacturing Corporation
Door Operator and Remote Controls Manufacturers Association (DORCMA)
American Radio Relay League Inc. (ARRL)
Microlert Systems International
Chester L. Smith
Holmes Hally Industries
Edwards Distributing Corporation
Lido Doors, Inc.
Jack A. Rains-Garage Doors
Botta's Garage Door Service
The Stanley Works
Transcience Industries, Inc.
JBH Electronic Systems, Inc.
B&B Service, Burke V. Waldron
Ez-O-Matic Manufacturing Company
Lee W. Lewton Company
B-Safe Systems, Inc.
Chris Rollins, Inc.
Door & Operator Dealers of America (DODA)
Multi-Elmac Company
Gould, Inc.
Central Station Electrical Protection Association (CSEPA)
Security Equipment Industry Association (SEIA)
Scientific-Atlanta, Inc.
Household Data Services, Inc.
American District Telegraph Company (ADT)
Honeywell, Inc.
Property Protection Service of America/Milton F. Allen, dba Alarmtrace
Consumer Electronics Group of the Electronic Industries Association (EIA/CEG)
Communications Division of the Electronic Industries Association (EIA/CD)
Office of Telecommunications Policy/National Telecommunications and Information Administration (OTP/NTIA)
Alliance Manufacturing Company, Inc.
Alarm Device Manufacturing Company (ADEMCO)
National Burglar and Fire Alarm Association (NBFAA)
Rollins Protective Services Company (RPS)
Chamberlain Manufacturing Corporation
Whirlpool Corporation
Napco Security Systems, Inc.
National Crime Prevention Association (NCPA)
Irving Haymes
GTE Sylvania
Barrett Electronics Corporation
A.R.F. Products, Inc.

II. Reply Comments were received from:

Rollins Protective Services Company (RPS)
Door Operator and Remote Controls Manufacturers Association (DORCMA)
Security Equipment Industry Association (SEIA)
Wackenhut Electronic Systems Corporation (WESC)
Alliance Manufacturing Company, Inc.
Alarm Device Manufacturing Company (ADEMCO)
Scientific-Atlanta, Inc.

## Appendix B

## PART 15—RADIO FREQUENCY DEVICES

Part 15 is amended as follows:

1. Paragraph (d) of § 15.63 is revised to read as follows:

**§ 15.63 Radiation interference limits.**

* * * * *

[12] Both certification and verification require the manufacturer to measure the emissions from the equipment. Under certification, this data is submitted to the Commission for review. Marketing is prohibited until the Commission has issued a Grant of Certification. Under verification no submission to the Commission is required and the equipment may be marketed as soon as the manufacturer satisfies himself that the equipment complies.

[13] Letter from Leo A. Buss, Director, Office of Spectrum Plans and Policies, NTIA, to Robert L. Cutts, Chief, Spectrum Management Division, FCC; July 31, 1981.

(d) Notwithstanding the provisions of paragraph (a) of this section, the level of emission of RF energy from a receiver associated with a transmitter operating under §§ 15.122, 15.184 or 15.201 through 15.215 shall not exceed the values listed below. The measurement techniques in FCC Measurement Procedure MP 1 "FCC Methods of Measurements For Determining Compliance of Radio Control and Security Alarm Devices and Associated Receivers" is used by the FCC to determine compliance with the technical requirements.

| Frequency (MHz) | Field strength at 3m (μV/m) |
|---|---|
| 25 to 70 | 320 |
| 70 to 200 | 500 |
| 200 to 1500 | [1] 500–5000 |
| Over 1500 | 5000 |

[1] Linear interpolation.

2. Section 15.120 is amended by revising the introductory text to read as follows:

**§ 15.120 Interim requirements for operation above 70 MHz.**

Manufacture and importation of a low power communications device complying with all the provisions of paragraphs (a) through (c) of this section shall cease September 1, 1983. Applications for certification of such a device will not be accepted by the Commission after June 15, 1983.

* * * * *

3. A new § 15.122 is added as follows:

**§ 15.122 Periodic operation in the bands 40.66–40.70 MHz and above 70 MHz.**

A low power communication device may be operated in the band 40.66–40.70 MHz or at any frequency above 70 MHz subject to the following conditions:

(a) The emission of RF energy on the fundamental frequency as well as spurious and harmonic emissions shall not exceed the field strength in the following table:

| Fundamental frequency (MHz) | Field strength of fundamental (μV/m at 3m) | Field strength harmonics and spurious (μV/m at 3m) |
|---|---|---|
| 40.66 to 40.70 | 1000 | 100 |
| 70 to 130 | 500 | 50 |
| 130 to 174 | [1] 500–1500 | [1] 50–150 |
| 174 to 260 | 1500 | 150 |
| 260 to 470 | [1] 1500–5000 | [1] 150–500 |
| 470 and above | 5000 | 500 |

[1] Linear interpolation.

(b) The device is provided with a means for automatically limiting operation so that the duration of each transmission shall not be greater than one second and the silent period between transmissions shall be at least 30 times the transmission duration but in no case less than 10 seconds.

(c) For operation in the band 40.66 to 40.70 MHz, the bandwidth of the emission shall be confined within the band edges and the frequency tolerance of the carrier shall be ±0.01%. This tolerance shall be maintained for a temperature variation of −20° to +50°C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20°C.

(d) The bandwidth of the emission shall be no wider than 0.25% of the center frequency for devices operating above 70 MHz and below 900 MHz. For devices operating above 900 MHz, the emission shall be no wider than .5% of the center frequency.

Note.—Bandwidth is determined at the points 20dB down from the modulated carrier.

(e) If the device is to be operated from public utility lines, the RF energy fed back into the power lines shall not exceed 250 microvolts at any frequency between 450 kHz and 30 MHz.

4. In § 15.141, paragraph (c) is revised to read as follows:

**§ 15.141 Measurement procedure.**

* * * * *

(c) The measurement techniques set out in FCC Measurement Procedure MP 1 "FCC Methods of Measurements for Determining Compliance of Radio Control and Security Alarm Devices and Associated Receivers" is used by the FCC to determine compliance of devices operating under § 15.122 with the technical specifications.

**§ 15.142 [Amended]**

5. The table in § 15.142 is amended by adding the frequency band "40.66 to 40.70 MHz" between the bands designated "26.97 to 27.27 MHz" and "49.82 to 49.90 MHz". The entry for the lowest frequency in the table for the 40.66 to 40.70 MHz bands is "Lowest frequency generated in the device or 25 MHz, whichever is lower" and the entry for the highest frequency is "1000 MHz".

**§§ 15.182 and 15.183 [Removed]**

6. The present text and title of §§ 15.182 and 15.183 are removed.

7. Section 15.184 is amended by revising the title and introductory text to read as follows:

**§ 15.184 Interim requirements for operation above 70 MHz.**

Manufacture and importation of a radio control for a door opener complying with all the provisions of this Section shall cease September 1, 1983. Applications for certification of devices operating under this Section will not be accepted by the Commission after June 15, 1983.

* * * * *

**§ 15.185 [Amended]**

8. Section 15.185 is amended in paragraph (a) by substituting the phrase "under § 15.184" for the phrase "above 70 MHz manufactured after March 24, 1971" and removing and reserving, of paragraph (b).

9. A new undesignated heading and new §§ 15.201–15.215, inclusive, are added to Subpart E to read as follows:

**Subpart E—Low Power Communication Devices: Specific Devices**

* * * * *

**Control and Security Alarm Devices**

Sec.

15.201 Scope.
15.202 Cross reference.
15.203 Non-interference requirement.
15.204 Receiver susceptibility to interference.
15.205 Technical standards.
15.207 Certification.
15.211 Identification.
15.213 Measurement procedure.
15.215 Report of measurements.

**Control and Security Alarm Devices**

**§ 15.201 Scope.**

A device that uses radio frequency energy for control or security alarm applications excluding radio control of toys may be operated without an individual license under these provisions. Examples of such devices include, but are not limited to, radio control of a fire, burglar, security, or other emergency alarm; control of a door opener, control of a remote switch, etc. Radio controlled toys and games are not allowed to operate under these provisions.

(a) Devices operating under this section may not be used for continuous transmission. The following transmissions are not permitted:

(1) Voice communications.

(2) Data communications regardless of modulation. This prohibition is not intended to prohibit digital coding of transmissions for radio control or security alarm purposes.

(3) Periodic transmissions at regular predetermined intervals. Polling or supervision to determine security system integrity is allowed at a rate of not more than one transmission of less than 5 seconds duration in any 8 hour period.

(b) A transmitter operated manually must employ a switch that will automatically deactivate the transmitter when released. A transmitter activated automatically must cease transmission

within 5 seconds after activation. One exception is permitted: a transmitter employed for remote control purposes in emergencies such as fire, security, safety, etc., whether activated manually or automatically, may operate continuously during the alarm condition.

**§ 15.202 Cross reference.**

A control or security alarm device may operate in any of the frequency bands listed under Subpart D of this Part, pursuant to the provisions therein.

**§ 15.203 Non-interference requirement.**

Notwithstanding the compliance with the technical specifications in this Part, the operation of control and security alarm devices is subject to the general conditions of § 15.3. The operator of a control or security alarm device may be required to stop operating his device upon a finding that the device is causing harmful interference and it is in the public interest to stop operation until the interference problem has been corrected.

**§ 15.204 Receiver susceptibility to interference.**

(a) As stated in § 15.203, a low power communication receiver must operate on a sufferance basis; that is, it is not offered any protection by the Commission should an authorized high power (government or non-government) radio station cause undesired operation of the receiver. Manufacturers are therefore encouraged to consider the susceptibility of the receiver in the design of their systems, particularly for those systems that operate in the frequency bands identified in Section 2.106 of this Chapter for government operations.

(b) Manufacturers may obtain information on government operations and use it to reduce the susceptibility of their equipment to authorized government stations. Such information may be obtained from: Director, Spectrum Plans and Policy, National Telecommunications and Information Administration, Department of Commerce, Washington, DC 20230.

**§ 15.205 Technical standards.**

(a) Emission of RF energy from the transmitter as well as the receiver part of the control shall not fall within any of the bands listed below:

| Megahertz | Megahertz | Gigahertz |
|---|---|---|
| 73 to 75.4 | 608–614 | 10.68–10.70 |
| 108 to 118 | 960–1215 | 15.35–15.4 |
| 121.4 to 121.6 | 1400–1427 | 19.3–19.4 |
| 156.7 to 156.9 | | |
| 240 to 285 | 1535–1670 | 31.3–31.5 |
| 328.6 to 335.4 | 2690–2700 | 88–90 |
| 404 to 406.2 | 4200–4400 | |
| | 4990–5250 | |

Note.—A radiation level below 15 μV/m at 3 meters will be considered to meet this requirement for emissions on frequencies below 1000 MHz.

(b) Subject to the limitation in paragraph (a) of this section, emission of RF energy on the fundamental frequency and spurious and harmonic emissions from the transmitter shall not exceed the levels in the following table:

| Fundamental frequency (MHz) | Field strength of fundamental (μV/m at 3m) | Field strength harmonics and spurious (μV/m at 3m) |
|---|---|---|
| 40.66 to 40.70 | 2250 | 225 |
| 70 to 130 | [1] 1250–3750 | [1] 125–375 |
| 130 to 174 | 1250 | 125 |
| 174 to 260 | 3750 | 375 |
| 260 to 470 | [1] 3750–12500 | [1] 375–1250 |
| 470 and above | 12500 | 1250 |

[1] Linear interpolation.

(c) For operation in the band 40.66 to 40.7 MHz, the bandwidth of the emission shall be confined within the band edges and the frequency tolerance of the carrier shall be ±0.01%. This tolerance shall be maintained for a temperature variation of −20° to +50°C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20°C.

(d) The bandwidth of the emission shall be no wider than 0.25% of the center frequency for devices operating above 70 MHz and below 900 MHz. For devices operating above 900 MHz, the emission shall be no wider than 0.5% of the center frequency.

Note.—Bandwidth is determined at the points 20dB down from the modulated carrier.

(e) If the device is to be operated from public utility lines, the RF energy conducted back into the power lines shall not exceed 250 microvolts at any frequency between 450 kHz and 30 MHz.

**§ 15.207 Certification.**

(a) A radio control or security alarm device operating under the provisions of § 15.203 shall be certificated pursuant to Subpart B of Part 15.

(b) The receiver part of a control device shall be certificated pursuant to Subpart B of Part 15 to show compliance with the technical standards for receivers in Supart C of Part 15.

**§ 15.211 Identification.**

(a) A radio control or security alarm device and its associated receiver shall be identified pursuant to §§ 2.925 and 2.1045 of this Chapter. The FCC

Identifier for such equipment will be validated by the grant of certification issued by the Commission. The nameplate or label shall also bear the following statement:

This device complies with FCC Rules Part 15. Operation is subject to the following two conditions: (1) This device may not cause harmful interference and (2) this device must accept any interference that may be received, including interference that may cause undesired operation.

**§ 15.213 Measurement procedure.**

The measurement techniques set out in FCC Measurement Procedure MP 1 "FCC Methods of Measurements for Determining Compliance of Radio Control and Security Alarm Devices and Associated Receivers" is used by the FCC to determine compliance with the technical requirements for a control or security alarm device and its associated receiver. Manufacturers are encouraged to follow this procedure in determining compliance.

**§ 15.215 Report of measurements.**

The report of measurements for a radio control or security alarm device operating under § 15.203 shall cover the range of frequencies in § 15.142 of this part and shall contain the information required by § 15.143.

## Appendix C.—FCC Measurement Procedure MP 1

*FCC Methods of Measurements for Determining Compliance of Radio Control and Security Alarm Devices and Associated Receivers*

**Index**

1.0 Introduction
2.0 Scope
2.0 Definitions
3.1 Ambient Level
3.2 Conducted Radio Noise
3.3 Emission
3.4 Equipment Under Test (EUT)
3.5 Radio Frequency (RF) Energy
4.0 General Test Conditions
4.1 Test Standards
4.1.1 Open-Field Tests
4.1.2 Electrical Power
4.1.3 EUT Placement
4.2 Measuring Instrumentation
4.2.1 Measuring Instrument Calibration
4.2.2 Detector-Function Selection
4.2.3 Units of Measurements
4.2.4 Antennas
4.2.5 Preliminary Testing and Monitoring
4.3 Frequency Range to be Scanned
4.4 Data-Reporting Format
4.5 Radiated Test Procedure
4.6 Conducted Test Procedure

**FCC Methods of Measurements for Determining Compliance of Radio Control and Security Alarm Devices and Associated Receivers**

*1.0 Introduction*

The FCC recently amended Part 15 of its rules to permit the operation of a low power radio control or security alarm transmitter without an individual license. These rules, in §§ 15.201 through 15.215, are in addition to the provisions for other low power communication devices in Subparts D and E of Part 15. Section 15.122 in Subpart D provides for transmitters which emit periodic transmissions. Devices operating under § 15.122 should also use this procedure in determining compliance. The requirements for the receiver are in Subpart C of Part 15. In addition to meeting certain technical requirements, the radio control transmitter and receiver must also be certificated by the Commission in accordance with the procedures in Subpart B of Part 15 and Subpart J of Part 2. Certification by the Commission is a prerequisite for marketing the equipment pursuant to Subpart I of Part 2.

*2.0 Scope*

This standard sets forth the methods for measuring both the radio control transmitter and its associated receiver to show compliance with the new technical requirements. Both radiated and conducted measurements are covered in this procedure. This standard shall also be used for determining compliance of the receiver.

*3.0 Definitions*

*3.1 Ambient Level*

The magnitude of radiated or conducted signals and noise existing at a specific test location and time.

*3.2 Conducted radio noise*

Radio-noise propagated from the device back into the public electrical power network via the supply cord.

*3.3 Emission*

Electromagnetic energy produced by a device which is radiated into space or conducted along wires and is capable of being measured.

*3.4 Equipment Under Test (EUT)*

The representative unit of a system or component of a system being tested or evaluated.

*3.5 Rodio Frequency (RF) Energy*

Electromagnetic energy at any frequency in the radio spectrum between 10 kHz and 3,000,000 MHz.

*4.0 General Test Conditions*

*4.1 Test Stondards*

A radio control transmitter and its associated receiver must be measured at a test facility which assures valid repeatable measurement results. A measurement is valid to the extent that it is true representation of the characteristic being measured and when the same procedure yields repeatable results. Radiated measurements shall be made in an open field. (See 4.1.1) Alternatively, radiated

measurements may be made at a facility which produces results that are correlateable to the open field results. Pursuant to § 15.38 of FCC Rules, a description of the measurement facility must be either, on file with the Commission, or filed with the application for certification. To determine the suitability of a particular facility for making radiated tests, a site calibration curve may be required with the description required by § 15.38.

Note.—A rulemaking proceeding in Docket 21371 proposes to replace § 15.38 with a new section in Part 2 of FCC Rules. The new section will include revised and expanded requirements including a measurement of the site attenuation of an open field test site. The method of making site attenuation measurements is also covered in Docket 21371.

*4.1.1 Open-Field Tests*

Radiated measurements shall be made in an open, flat area characteristic of cleared, level terrain. Such test sites shall be void of buildings, electric lines, fences, trees, etc., and free from underground cables, pipelines, etc., except as required to supply and operate the EUT. The ambient radio-noise levels and other undesired signals shall be sufficiently low so as not to interfere with the measurements. A suggested layout of an open-field test site is shown in Figure 1, where all reflecting objects lie outside the perimeter of the enclosure elongated circle. (Note: A metal fence or large reflecting object shall be sufficiently far from the perimeter of the circle so as not to introduce additional unknown factors.) The distance from the EUT and measuring antenna shall be measured from the center of the rotating platform.

*4.1.2 Electrical Power*

Power lines to both EUT and test instrumentation shall be kept as short as possible. Although not mandatory, electrical power to the test site should be buried. Adequate isolation shall be incorporated to prevent coupling signals into the test instrumentation via the power lines. Electrical service shall be maintained within 5% of nominal voltage.

*4.1.3 EUT Placement*

The EUT shall be set on a wooden or other non-conducting table/framework in an orientation which yields maximum radiation. If possible, the table shall be mounted on a platform which is capable of being rotated about its vertical axis and remotely controlled from the measuring position. Electrical service to the EUT shall be routed up the center of the table. If a rotatable platform is not used, provisions shall be made for manually orientating the supporting structure. The height of the EUT above the ground shall be one (1) meter.

*4.2 Measuring Instrumentation*

Radiated and conducted measurements shall be made with a radio-noise meter that conforms with the American National Standard Specifications for Electromagnetic Interference and Field Strength Instrumentation 10 kHz to 1 GHz, C63.2 (1980). Alternatively, a spectrum analyzer may be used, provided the results obtained can be accurately reproduced with a suitable radio-noise meter. If a spectrum analyzer is used care must be taken to avoid measurement of spurious emissions produced by the instrument. Several application notes explaining the proper use of a spectrum analyzer for making EMI measurements are available from Hewlett-Packard, Tektronix and other reputable spectrum analyzer manufacturers.

*4.2.1 Measuring Instrument Calibration*

The calibration of the measuring instrument shall be checked frequently enough to assure its accuracy. Adjustments shall be made and correction factors applied in accordance with instructions contained in the manual for the measuring instrument.

*4.2.2 Detector-Function Selection*

For radio-noise meters or spectrum analyzers which include weighting circuits, the detector shall function in an average reading mode. Post detector video filters may be used in the case of peak reading spectrum analyzers if correlation can be shown to an average reading radio-noise meter.

*4.2.3 Units of Measurements*

Measurements of radiated interference shall be reported in terms of microvolts per meter at a specified distance. The indicated readings on the spectrum analyzer or the radio-noise meter shall be converted to microvolts per meter by use of appropriate conversion factors. Measurements of conducted interference shall be reported in terms of microvolts.

*4.2.4 Antennas*

A calibrated, tuned, half-wavelength dipole antenna shall be used for measuring the level of radiated emissions. Other linearly polarized antennas are acceptable provided the results obtained with such antennas are correlateable to levels obtained with a tuned dipole. The antenna shall be capable of measuring both horizontal and vertical polarizations and being varied in height from 1 to 4 meters.

*4.2.5 Preliminary Testing and Monitoring*

Preliminary radiated measurements should be made inside, preferably in an enclosure, at a closer distance than specified for compliance to determine the emission characteristics of the EUT. If a spectrum analyzer is not used, radio-noise measurements should be monitored using either a headset or loudspeaker as an aid in detecting ambient signals and selecting problem frequencies. Precautions shall be taken to ascertain that the use of a headset or speaker does not affect the radio-noise meter indication during testing.

*4.3 Frequency Range to be Scanned*

For radiated measurements, the frequency range from 30 MHz to 1000 MHz shall be searched and all emissions from the EUT that are within 10 dB of the appropriate limit shall be measured and reported. For conducted measurements, the frequency range of 450 kHz to 30 MHz shall be searched and all emissions from the EUT that are within 10 dB

of the appropriate limit shall be measured and reported. To facilitate testing with a radio-noise meter, the frequency range covered in the particular test should be scanned while monitoring with a headset or speaker. If any indicated peaks appear while scanning, readings shall be taken at the frequencies where they occur. The scan rate shall be such that noise signals above radio-noise meter sensitivity are not omitted from detection.

Note.—Automatic scan techniques are acceptable but the maximum scan speed is limited by the response time of the measurement system and the repetition rate of the radio-noise to be measured.

*4.4 Data-Reporting Format*

The measurement results expressed in accordance with 4.2.3, and specific limits where applicable, shall be presented in tabular and/or graphical forms showing level vs. frequency. Instrumentation, instrument and bandwidth settings, detector function, EUT arrangements, sample calculation with all conversion factors and all other pertinent details shall be included along with the measurement results.

*4.5 Radiated Test Procedure*

The transmitter and its associated receiver shall be tested separately. The EUT complete with its antenna shall be placed on supporting table at the specified height and oriented on the table for maximum radiation. (See Figure 1) After the EUT and test equipment is warmed up and operating, the table shall be rotated either automatically or manually until maximum radiation is indicated on the test instrumentation which has been tuned to the frequency being measured. The height of the measuring antenna shall also be varied between 1 and 4 meters (measured to the center of the antenna) for both horizontal and vertical polarization. The maximum reading shall be recorded. The transmitter shall operate continuously for the purpose of those measurements.

*4.6 Conducted Test Procedure*

Measurement of radio frequency energy conducted from the EUT back into the electrical supply shall be made in accordance with conducted powerline measurements specified in the FCC measurement procedure entitled "FCC Methods of Measurements of Radio Noise Emissions from Computing Devices" set out in Appendix A of Part 15. The input signal to the receiver during these tests should be at a level of 1000 $\mu$V and be modulated in a manner similar to its associated transmitter. Where it is impractical to connect directly to the receiver from a standard signal generator, the input signal to the receiver may be established by radiating a signal of sufficient strength to induce approximately 1000 $\mu$V in the antenna system of the receiver.

BILLING CODE 6712-01-M

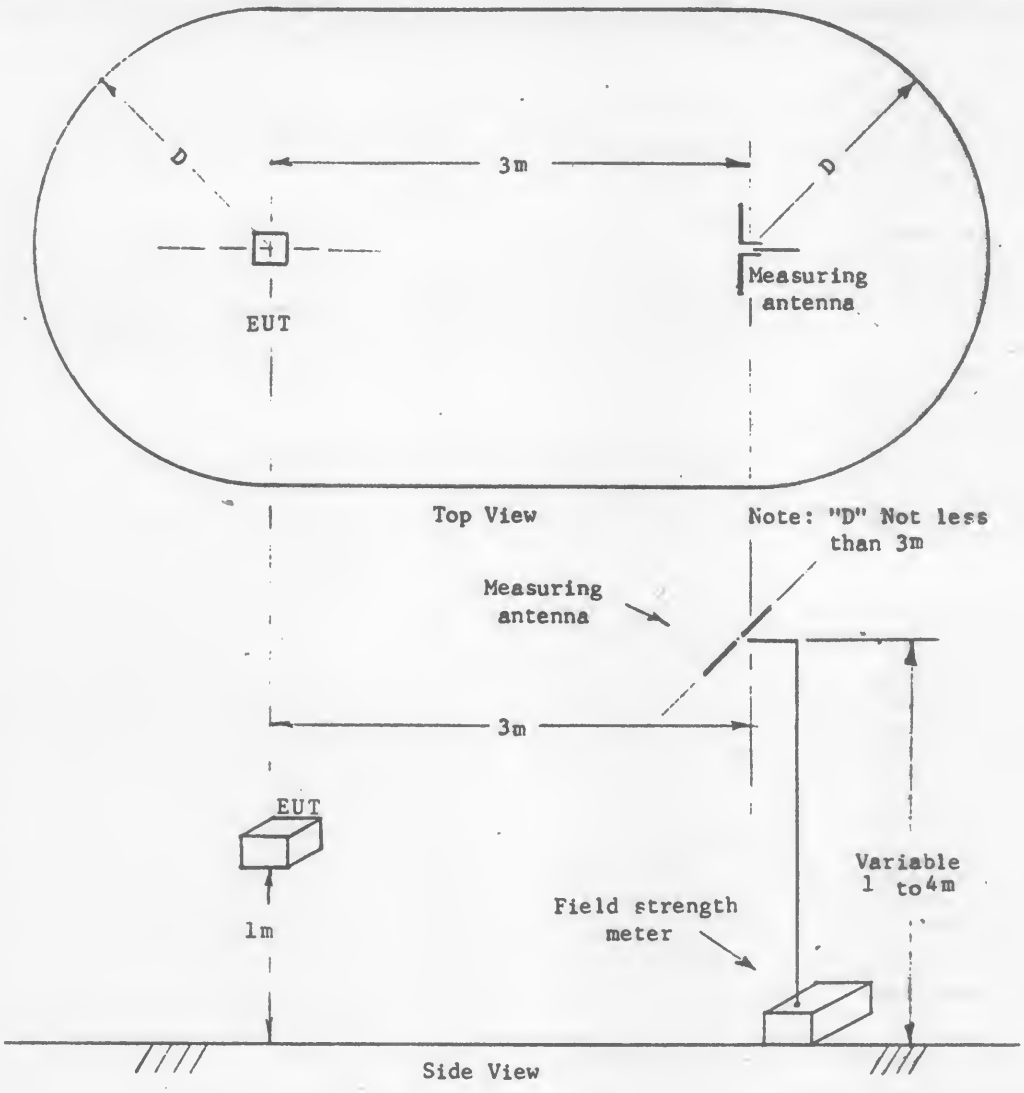


Figure 1. Test-site and Equipment Arrangement

[FR Doc. 81-32247 Filed 11-9-81; 8:45 am]
BILLING CODE 6712-01-C

# Proposed Rules

Federal Register
Vol. 46, No. 217
Tuesday, November 10, 1981

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.

## OFFICE OF PERSONNEL MANAGEMENT

**5 CFR Ch. I**

### Semiannual Agenda of Regulations; Delay in Publication Date

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice of delay in publication date of regulatory agenda.

**SUMMARY:** E.O. 12291, Federal Regulation, and the Regulatory Flexibility Act require publication of semiannual agenda in April and October of each year. Because of the need for additional time to complete a thorough review of OPM regulations development, the Office of Personnel Management's semiannual agenda under the new requirements will be delayed for publication until November or December 1981.

**FOR FURTHER INFORMATION CONTACT:** Beverly McCain Jones, Issuance System Manager, (202) 254–7086.

**SUPPLEMENTARY INFORMATION:** I have requested that an additional review of the agenda be made to be sure all items reflect the Administration's desire to reduce the number of regulations issued to the absolute minimum necessary to carry on personnel management functions in the civil service.

Office of Personnel Management.

**Donald J. Devine,**

*Director.*

[FR Doc. 81–32557 Filed 11–9–81; 8:45 am]

BILLING CODE 6325–01–M

## FEDERAL RESERVE SYSTEM

**12 CFR Part 220**

**[Docket No. R–0370]**

### Credit by Brokers and Dealers; Proposal To Permit Use of Letters of Credit as the Required Deposit When Securities are Borrowed

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed amendment.

**SUMMARY:** The Board proposes to amend § 220.6(h) of Regulation T, which regulates brokers and dealers when they borrow or lend securities. The present regulation requires a deposit of cash as collateral. The proposed amendment permits irrevocable letters of credit and United States government securities to be used, and specifies that the deposit must at all times be equal in value to the current market value of the borrowed securities. The existing limitations in the rule on the occasions when securities may be borrowed are to be retained. This action is being taken in response to requests and is intended to provide alternative types of deposits which lenders and borrowers of securities may agree to use.

**DATE:** Comments should be received on or before January 5, 1982.

**ADDRESS:** Comments, which should refer to Docket No. R–0370, may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551, or delivered to Room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may also be inspected at Room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

**FOR FURTHER INFORMATION CONTACT:** Laura Homer, Securities Credit Officer, or Bruce Brett, Securities Regulation Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2781).

**SUPPLEMENTARY INFORMATION:** The Board has been requested by a major brokerage house and others to amend § 220.6(h) in order to permit the use of letters of credit as the deposit required when securities are borrowed either to complete short sales or to settle transactions where there has been a failure to receive the securities required to be delivered. It has been suggested that the use of letters of credit (1) provides a less cumbersome system than the use of cash during times of high interest rates (when the earnings of the cash are often divided between the borrower and the lender) and (2) is regarded by fiduciaries who lend securities as a safer system in the event of failure of the borrowing broker or dealer. The proposed language also adds as an alternative deposit "United States government securities." This would codify an existing industry practice. The language has also been changed to clarify that deposits should be "marked to the market." The Board believes there will be no adverse economic consequences from the proposed amendment; and, for the purpose of 5 U.S.C. 605(b), the Board certifies that the rule would not have significant economic impact on a substantial number of small entities.

### PART 220—CREDIT BY BROKERS AND DEALERS

Accordingly, pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g, 78w), the Board proposes to revise § 220.6(h) of Regulation T, to read as follows:

**§ 220.6 Certain technical details.**

* * * * *

(h) *Borrowing and lending securities.* Without regard to the other provisions of this part, a creditor may borrow or lend securities for the purpose of making delivery of the securities in the case of short sales, failure to receive securities required to be delivered, or other similar situations. Each borrowing shall be secured by a deposit of cash, United States government securities or an irrevocable letter of credit issued by a bank insured by the Federal Deposit Insurance Corporation. Such deposit made with the lender of the securities shall have at all times a value at least equal to 100 percent of the market value of the securities borrowed.

* * * * *

By order of the Board of Governors of the Federal Reserve System, November 4, 1981.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 81–32552 Filed 11–9–81 8:45 am]

BILLING CODE 6210–01–M

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Ch. I

### Improving Government Regulations; Semiannual Agenda

**AGENCY:** Small Business Administration.

**ACTION:** Publication of the Semiannual Agenda of Regulations under review or development by the Small Business Administration.

**SUMMARY:** SBA has previously published four semiannual regulatory agendas pursuant to EO 12044 "Improving Government Regulations." Although not a regulatory Agency, SBA has attempted to draft agendas that met both the criteria and the spirit of the EO and furthered the regulatory review process. This is its second agenda published pursuant to EO 12291, effective February 17, 1981, and the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., Pub. L. 96–354, effective January 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** For further information on agenda items, the public is encouraged to contact the individual Agency official listed for the particular item.

For information concerning SBA's overall Regulatory Review and Development Program or general semiannual agenda questions, contact Martin D. Teckler, Assistant General Counsel for Legislation, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, 202/653–6662.

**SUPPLEMENTARY INFORMATION:** SBA's agenda contains many regulations which are limited in public impact, but are included to increase public awareness of SBA's regulatory activities and public participation in the review and development process. Comments received on SBA's previous agendas have been general, and all were positive. None were directed at specific contents, nor were any changes suggested or recommended.

Part I of the Agenda, Regulations Under Review and Development, includes proposed and final regulations issued by SBA since last agenda's publication. Part II, Existing Regulations Selected for Review, informs the public of current regulation review within the Agency. The format for the agenda is:

Part I: Regulations Under Review and Development contains:

A. A summary of all proposed or final rules published since May 1981, which includes the rule's objectives and its legal basis. If a listed rule is a major rule within the meaning of EO 12291 or will have a significant impact on a substantial number of small entities, it will be so designated.

B. The approximate schedule for completing action on each rule listed.

C. The name and phone number of an Agency official knowledgeable on each listed rule.

Part II: Existing Regulations Selected for Review contains:

A. A list of existing regulations to be reviewed or promulgated under the terms of EO 12291 and the Regulatory Flexibility Act. In this regard, we have designated existing regulations which are being periodically reviewed pursuant to section 610(c) of the Regulatory Flexibility Act, and section 5(a)(3) of EO 12291.

B. A summary of such rule's nature and legal basis and an approximate timetable for completing action.

C. The name and phone number of an Agency official knowledgeable on each such rule.

Publication of this agenda does not impose any binding obligation on SBA with regard to any specific item found in the agenda. Additional regulatory action not listed on the agenda is not precluded.

Dated: November 3, 1981.

**Michael Cardenas,**

*Administrator.*

I. REGULATIONS UNDER REVIEW AND DEVELOPMENT

| Date published and Federal Register cite | Nature of publication | Subject of publication | Approx. date of completion | Knowledgeable official | Legal basis |
|---|---|---|---|---|---|
| Aug. 17, 1981, 46 FR 41523 | Proposed Rule | Business Loan Policy; Small Business Lending Companies, 13 CFR Part 120.4. | Spring of 1982 | Robert C. Hull (202) 653–7694. | 15 U.S.C. 634(b)(6). |
| Jan. 5, 1981, 46 FR 931 | ....do | Rules governing policy against discrimination against the handicapped in administration of SBA programs, 13 CFR Part 113. | ....do | Doris A. Dockett (202) 653–6054. | Section 504 of Rehabilitation Act of 1978 and 15 U.S.C. 634. |
| Mar. 10, 1980, 45 FR 15442 | Advance Notice of Proposed Rulemaking. | Size Standards, Complete Revision, 13 CFR 121.3. | July 1982 | Kaleel C. Sheikh (202) 653–6373. | 15 U.S.C. 632. |
| May 4, 1981, 46 FR 24931 | Final Rule | Rules governing SBA's interest rates relative to SBA's pollution control bond program, 13 CFR Part 111. | May 4, 181 | Vincent A. Fragnito (703) 235–2902. | 15 U.S.C. 687(c). |
| Sept. 17, 1981, 46 FR 46113 | ....do | Rules governing SBA's surety bond guarantee program, 13 CFR Part 115. | September 17, 1981 | Howard F. Huegel (703) 235–2907. | 15 U.S.C. 687(c) and 15 U.S.C. 694 (a) and (b). |
| June 18, 1981, 46 FR 31899 | Proposed Rule | Rules governing Minority Small Business and Capital Ownership Development Advance Payments, 13 CFR Part 124. | October 1981 | Charlie Dean (202) 653–6699. | 15 U.S.C. 634(b)(6) and 637(a). |
| June 1, 1981, 46 FR 29276 | ....do | Rules governing MSB/COD Assistance Fixed Program Participation Term, 13 CFR Part 124. | ....do | ....do | 15 U.S.C. 634(b)(6) and 637(a). |
| June 1, 1981, 46 FR 29251 | Interim Rule | Rules governing MSB/COD Fixed Program Participation Term, 13 CFR Part 124. | June 1981 | ....do | 15 U.S.C. 634(b)(6) and 637(a). |
| Feb. 3, 1981, 46 FR 10501 | Proposed Rule | Rules governing challenges to determinations made in SBA's subcontracting program, 13 CFR Part 124. | October 1981 | Susan K. Zagame (202) 653–6589. | 15 U.S.C. 634(b)(6) and 637(a). |
| Dec. 1, 1980, 45 FR 79496 | ....do | Rules governing eligibility criteria for SBA's minority small business contracting program, 13 CFR Part 124. | November 1981 | Carl Ellison (202) 653–5688 | 15 U.S.C. 634(b)(6) and 637(a). |
| Dec. 1, 1980, 45 FR 79413 | Interim Rule | Rules governing eligibility for SBA's minority small business contracting program, 13 CFR Part 124. | ....do | ....do | 15 U.S.C. 634(b)(6) and 637(a). |
| June 22, 1981, 46 FR 32259 | Proposed Rule | Extensive revision of SBA's Standards of Conduct Regulations, 13 CFR Part 105. | October 1, 1981 | Donald W. Farrell (202) 653–6660 or Robert M. Peterson (202) 653–6477. | 15 U.S.C 634(b)(6). |

I. REGULATIONS UNDER REVIEW AND DEVELOPMENT—Continued

| Date published and Federal Register cite | Nature of publication | Subject of publication | Approx. date of completion | Knowledgeable official | Legal basis |
|---|---|---|---|---|---|
| Jan. 12, 1981, 46 FR 2591 | Final Rule | Clarifying and procedural provisions applicable to SBA determination of the maximum size a business can be and remain eligible for SBA programs, 13 CFR Part 121. | Jan. 12, 1981 | Stephen A. Klein (202) 653-6782. | 15 U.S.C. 634(b)(6). |

II. EXISTING REGULATIONS SELECTED FOR REVIEW

| Regulation | Basis for rule | Nature of rule | Timetable for completion | Agency official |
|---|---|---|---|---|
| 13 CFR Part 125.5 | 15 U.S.C. 637(b)(7) | Certificate of Competency Program [1] [2]. | Proposed rule expected to be published by Spring 1982. | Robert Moffitt (202) 653-6582. |
| 13 CFR Part 122 *et seq* | 15 U.S.C. 636(a) and 634(b)(6) | Business Loan Policy, Miscellaneous Revisions based on Pub. L. 97-35 [2]. | Proposed rule expected to be published by Summer 1982. | Robert H. Bartlett (202) 653-6470. |
| 13 CFR Part 123 *et seq* | 15 U.S.C. 636(b) and 634(b)(6) | Disaster Loans, Miscellaneous Revisions based on Pub. L. 96-302 and Pub. L. 97-35 [2]. | Proposed rule expected to be published by December 1981. | Brenard Kulik (202) 653-6879. |
| 13 CFR Part 107 | 15 U.S.C. 687(c), (d) and (g) | Complete Revision of Rules governing small business investment companies [2]. | Proposed rule expected to be published in Fall 1981. | Howard Cooper (202) 653-6561. |
| 13 CFR Part 107, Appendices A, B, and C. | 15 U.S.C. 687(c), (d) and (g) | Modification of appendices prescribing accounting methods, auditing guidelines and account classification to include provisions for partnership SBIC's. | do | Peter F. McNeish (202) 653-6848. |
| 13 CFR Part 108 | 15 U.S.C. 695 and 696 | Loans to State and Local Development Companies. | Proposed rule expected to be published by Spring 1982. | Robert H. Bartlett (202) 653-6470. |
| 13 CFR Part 116 | 15 U.S.C. 636, 15 U.S.C. 634(b)(7) | Policies of General Application to SBA's Financial Assistance Programs. | do | Robert H. Bartlett (202) 653-6470. |
| 13 CFR Part 118 | 15 U.S.C. 636 as amended by section 1902 of Pub. L. 97-35. | Handicapped Assistance Loans, Miscellaneous Revisions based on Pub. L. 97-35. | do | Robert H. Bartlett (202) 653-6470. |
| 13 CFR Part 119 | 15 U.S.C. 636 as amended by section 1902 of Pub. L. 97-35. | Economic Opportunity Loan Program, Miscellaneous Revisions based on Pub. L. 97-35. | do | Robert H. Bartlett (202) 653-6470. |
| 13 CFR Part 120 | 15 U.S.C. 634(b)(6) | Business Loan Policy, Miscellaneous Revisions based on Pub. L. 97-35. | do | Robert H. Bartlett (202) 653-6470. |
| 13 CFR Part 130 | 15 U.S.C. 636 as amended by section 1902 of Pub. L. 97-35. | Small Business Energy Loans Miscellaneous Revisions based on Pub. L. 97-35. | do | Robert H. Bartlett (202) 653-6470. |
| 13 CFR Part 124 | 15 U.S.C. 637(a) | Partial Revision of rules governing the Minority Small Business and Capital Ownership Development Program. | do | Robert L. Wright (202) 653-6407. |
| 13 CFR Part 132 | 15 U.S.C. 634(b) and 5 U.S.C. 504 | New Regulations to implement the Equal Access to Justice Act. | Interim Regulations expected to be published October 1981. | Martin D. Teckler (202) 653-6797. |

[1] Denotes significant or major rule for purposes of E.O. 12291.
[2] Denotes a rule being considered for revision pursuant to section 610(c) of the Regulatory Flexibility Act and section 5(a)(3) of Executive Order 12291.

[FR Doc. 81-32370 Filed 11-9-81; 8:45 am]
BILLING CODE 6025-01-M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Parts 2 and 35

**[Docket No. RM81-38]**

## Construction Work in Progress for Public Utilities; Inclusion of Material in the Public Record

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of inclusion of material in the public record.

**SUMMARY:** The Commission staff is placing in the public record of the rulemaking proceeding in Docket No. RM81-38 (46 FR 39445, August 6, 1981) materials relating to the inclusion of construction work in progress (CWIP) in the rate base of public utilities. The public and participants in the proceeding are invited to comment on any of these materials.

**DATES:** Any comments should be filed on or before November 25, 1981.

**ADDRESS:** All materials are available for inspection during regular business hours at the Commission's Division of Public Information, Room 1000, 825 N. Capitol Street, N.E., Washington, D.C.

Send comments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426.

**FOR FURTHER INFORMATION CONTACT:** Ronald Rattey, Office of Regulatory Analysis, Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8186.

**SUPPLEMENTARY INFORMATION:** November 3, 1981.

In the matter of construction work in progress for public utilities; inclusion of material in the public file and service on parties to the proceeding.

The Commission staff, on this date, is placing in the public record of this proceeding the materials listed in the appendix to this Notice. In addition, the Commission staff will serve to all parties indicated on the service list for this proceeding one of the documents cited above, namely, information about certain computer models developed by staff to evaluate the impacts of alternative CWIP policies.

These documents will be available for inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., N.E., Washington, D.C., during regular business hours. Any

comments on these materials are due on or before November 25, 1981.

Kenneth F. Plumb,

*Secretary.*

Appendix

The following document is to be placed on public file and served on parties to this proceeding:

1. Proposed Computer Models for Evaluating Impacts of Alternative CWIP Policies.

The following documents are placed in the public file:

1. Summary of August 19 Technical Conference on CWIP between FERC Staff and Professors Jerome Hass and Gerald Pogue.

2. "Federal Energy Regulatory Commission Needs to Act on the Construction-Work-In-Progress Issue", Report by the U.S. General Accounting Office (EMD–81–123), September 23, 1981.

3. "Construction Work in Progress Issue Needs Improved Regulatory Response for Utilities and Consumers," Report by the Comptroller General of the United States (EMD–80–75), June 23, 1980.

4. "Profiles in Electricity Issues: Should CWIP be Included in an Electric Utility's Rate Base?" Electricity Consumers Resource Council, July 1981.

5. Direct Testimony of Bruce H. Fairchild before the Public Utility Commission of Texas in Docket No. 1903 (Re: Application of Texas Electric Service Company for Authority to Change Rates), August 1978.

6. "Some Thoughts on the Rate of Return to Public Utility Companies" by Bruce H. Fairchild and William E. Avera, Public Utility Commission of Texas, 1978.

7. Direct Testimony of Bruce H. Fairchild before the Public Utility Commission of Texas in Docket No. 2572 (Re: Application of Dallas Power and Light Company for Authority to Change Rates), August 1979.

8. Prepared Testimony of John D. Stewart before the State of New York Public Service Commission in the Matter of Case 27679 (Investigation of Financing Plans of Major Combination Gas and Electric Companies), undated.

9. Testimony of James A. Rothchild before the State of New York Public Service Commission in the Matter of Case 27679 (Investigation of Financing Plans of Major Combination Gas and Electric Companies), May 8, 1981.

10. Testimony of Herman Roseman before the State of New York Public Service Commission in the Matter of Case 27879 (Investigation of Financing Plans of Major Combination Gas and Electric Companies) pages 12–44 only, undated.

11. "Allowance for Funds Used During Construction and the Value of Public Utility Equities" by Howard E. Thompson, University of Wisconsin-Madison, Working Paper, October 1978.

12. "The Effect of AFUDC on the Investors' Capitalization Rates" by Anil K. Makhija (Graduate School of Business, University of Pittsburgh) and Howard E. Thompson (Graduate School of Business, University of Wisconsin-Madison), May 1981.

13. "Comparsion of Alternative Models for Estimating the Cost of Equity Capital for Electric Utilities" by Anil K. Makhija and Howard E. Thompson, July 1981.

14. Testimony and Exhibits of Michael Holmes before the Michigan Public Service Commission (MPSC) in Case No. U–5281, (In the matter, on the Commission's own motion, of proceedings on the appropriate treatment, for accounting and rate making purposes, of the direct and indirect costs of construction for regulated gas, electric and telephone utilities and their effect on income taxes applicable to Michigan Regulated Utilities), undated.

15. Testimony and Exhibits of Joseph C. Barden before the MPSC in Case No. U–5281, undated.

16. Testimony of Donald W. Johns before the MPSC in Case No. U–5281, undated.

17. Exhibit One of Donald W. Johns entitled "Test of Linear Relationship Between Utility Bond Ratings and the Cost of Debt" before the MPSC in Case No. U–5281, undated.

18. "Staff Report on 'Range of Proposals'" By Joseph C. Barden before the MPSC in Case No. U–5281, June 30, 1977.

19. Surrebuttal Testimony and Exhibits of Donald W. Johns before the MPSC in Case No. U–5281, January 23, 1978.

20. Surrebuttal Exhibit of D.W. Johns "Computation of Tax Factor Savings Due to a Change in Interest Coverage Resulting from Inclusion of Construction Work in Progress in the Rate Case" before the MPSC in Case No. U–5281, undated.

21. Surrebuttal Exhibits of D.W. Johns "1978 Equity Capital Study Utilizing a Price to Book Model for 98 Electric Utilities" before the MPSC in Case No. U–5281, undated.

22. Surrebuttal Testimony and Exhibits of Joseph C. Barden before the MPSC in Case No. U–5281, January 23, 1981.

23. Surrebuttal Case "Summary of the Results of the Staff Study of the Effect on Revenue Requirements and on the Present Value of Funds of Eliminating AFUDC and Including CWIP in the Rate Base Assuming an Ongoing Rate Base and Construction Program" by Joseph C. Barden before the MPSC in Case No. U–5281, undated.

24. Surrebuttal Case "Staff Study of the Impact on Revenue Requirements and on the Present Value of Funds of Flowing Through the Carrying Charge Related to CWIP" by Joseph C. Barden before the MPSC in Case No. U–5281 (3 parts), undated.

25. Staff Report entitled "A study of the impact on revenue requirements and on the present value of the dollars involved of various changes in present accounting and ratemaking procedures concerning 'AFUDC' and 'CWIP' and the Income Tax effect of 'ICC'" by J. Barden before the MPSC in Case No. U–5281, undated.

28. Opinion and Order of Michigan Public Service Commission in Case U–5281, March 14, 1980.

[FR Doc. 81–32463 Filed 11–9–81; 8:45 am]

BILLING CODE 6717–01–M

---

**18 CFR Part 4**

**[Docket No. RM82–2]**

## Small Hydroelectric Power Projects With an Installed Capacity of 5 Megawatts or Less; Exemptions From Provisions of Federal Power Act

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) proposes to amend certain definitions in its regulations governing the exemption of small hydroelectric power projects from provisions of the Federal Power Act to enable diversion projects of a specified size to qualify for exemption on a case-by-case basis as so-called natural water feature projects. The proposed rule would also eliminate notices of intent to file a preliminary permit for such project, if a permit rather than an exemption is sought, and would require a project owner to file for exemption within a specified notice period, if another person previously filed for a permit.

The proposed rule would permit a greater number and variety of projects to be exempted from certain provisions of the Act. The rule would also expedite the filing and consideration of competing applications for exemptible projects.

**DATE:** Written comments must be filed with the Commission's Secretary by December 7, 1981.

**ADDRESS:** Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. More information concerning the submittal of comments is found in Supplementary Information.

**FOR FURTHER INFORMATION CONTACT:**

James Hoecker, Division of Rulemaking and Legislative Analysis, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, (202) 357–9342

Ronald Corso, Director, Division of Hydropower Licensing, Office of Electric Power Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 376–9171

**SUPPLEMENTARY INFORMATION:**

October 29, 1981.

The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations which now provide for case-specific exemption of small hydroelectric power projects from

certain provisions of Part I of the Federal Power Act (Act), including the licensing provisions. The proposed amendments define the characteristics of certain small hydroelectric power projects, known as natural water feature projects, so as to make specific kinds of projects exemptible under the terms of the Energy Security Act of 1980 (ESA).[1] The Commission may now exempt natural water feature projects under the Commission's procedures established in Order No. 106.[2] However, neither the statute nor the regulations define what is meant by a natural water feature other than to state the Commission's authority to exempt projects that utilize natural water features for electric power generation. The Commission proposes to exempt these projects only on a case-specific basis.

The proposed rule would also amend § 4.33 of the Commission's regulations to preclude the filing of notices of intent to file a preliminary permit application, if an application for a permit rather than for an exemption is filed for a natural water feature project. Section 4.104 would also be amended.

## I. Natural Water Features

### *A. Background*

The ESA contains a provision that amends the Public Utility Regulatory Policies Act of 1978 (PURPA) to authorize the Commission to exempt certain small hydroelectric power projects, on a case-by-case basis or by class or category of such projects, from all or part of Part I of the Act, including any licensing requirement.[3]

Section 408 of the ESA grants the Commission discretion to provide exemption under specified conditions.[4] In addition to the 5 megawatt limitation which the statute provides for the proposed installed capacity of any exemptible project, a project, to be exemptible, must utilize either the water power potential of an existing dam or that of a so-called "natural water feature," without the need for a dam or man-made impoundment. The statute provides little guidance about what is meant by a "natural water feature". Nor does the legislative history indicate the possible configurations of project works that could be considered exemptible under this statutory concept. In the Commission's view, a natural water feature could be an elevated natural lake or a waterway, the topographical features of which permit diversion of some waters for purposes of power generation.

All projects which meet the threshold criteria of section 408 of the ESA are eligible for exemption under the Order No. 106 procedures.[5] However, when those procedures were developed, the term "natural water feature" was not defined. This was because, at that time, the Commission had little information or experience as to the scope of this satutory term. Instead, the Commission used a broad definition of "dam" in § 4.102 of the exemption rules. This definition was designed to include among those exemptible projects that rely on existing dams for power generation any project that might utilize diversion or intake structures which could substantially obstruct a natural body of water, though in a manner different than a conventional impoundment-creating structure. This approach was developed pending further Commission consideration of the nature and scope of the so-called natural water feature project, as distinguished from a project which utilizes an existing dam (*i.e.*, a dam built on or before April 20, 1977 which will not require major alteration for power development).

It may be inferred from the statutory scheme and certain practical considerations that the "natural water feature" concept of section 408 of the ESA pertains to any project that uses naturally available hydraulic pressure. Such projects may have various configurations of project works. If a project were built to take advantage of the power potential of an elevated natural impoundment (a lake), the project's works would probably not include a dam but, instead, an intake structure and a penstock that convey water to the powerplant.[6] If a project were constructed to utilize a stream with a steep or precipitous gradient, including a waterfall, the project's works would in this case use a structure to divert water into a penstock to develop the naturally available hydraulic head differential between the diversion point and the location of the powerplant. Without construction of a diversion structure to direct water into a penstock, it would not be possible to take advantage of most natural water features for power generation.

### *B. The proposed rule*

Section 408(c)(2) of the ESA specifically states that the Commission may determine how best to exempt natural water feature projects in order to achieve the purposes of Title IV of that Act. In the absence of express legislative guidance, the Commission proposes to revise in part the definition of "small hydroelectric power project" (§ 4.102(d)) to indicate the parameters of what the Commission will consider to be a natural water feature project not requiring an existing dam. Any diversion or intake structure utilized by such a project is limited to not more than six feet in height. Such structure may not create a pool larger than one acre-foot in volume.[7] In addition, the definition of "dam" (§ 4.102(a)) would be amended to exclude diversion structures which do not impound water so as to create artificially the hydraulic head used for power generation. Because a diversion

---

[1] Pub. Law 96-294, 94 Stat. 611.

[2] "Exemption from All of Part I of the Federal Power Act of Small Hydroelectric Power Projects with an Installed Capacity of 5 Megawatts or Less" (Docket No. RM80-65), issued November 7, 1981, 45 Fed. Reg. 76115, November 18, 1980. The case-specific procedures (16 C.F.R. §§ 4.101-4.108) are initiated by a qualified exemption applicant who files an application for exemption of a specific proposed project. The Commission then issues a notice of the application. The qualifications of the project for exemption, consistent with various environmental requirements and the public interest, are determined by the Commission in conjunction with review by Federal and state fish and wildlife agencies, Federal land management agencies, and other interested persons.

[3] The ESA amends section 408 of PURPA, as follows:

(c) Section 408 of such Act (as amended by subsection (a) of this section) is further amended—

(1) by inserting "(a)" before "For purposes of this title"; and "(B) *The requirement in subsection (o)(1) that a project be located at the site of an existing dam in order to quolify as a small hydroelectric power project,* and the other provisions of this title which require that a project be at or in connection with an existing dam (or utilize the potential of such dam) in order to be assisted under or included within such provisions, *shall not be construed to exclude*—

"(1) from the definition contained in such subsection (a)(1), or

"(2) from any other provision of this title, *any project which utilizes or proposes to utilize notural woter features for the generation af electricity, without the need for any dom or impoundment, in a manner which (as determined by the Commission) will achieve the purposes of this title ond will do so without any adverse effect upon such notural water feotures.". (Emphasis Added)*

[4] Certain environmental requirements which apply to projects which the Commission licenses will also apply to projects which it exempts from licensing, including the National Environmental Policy Act of 1969 and the consultation provisions in section 30 of the Federal Power Act.

[5] Order No. 106 contains a waiver provision (§ 4.103(d)) designed to address the additional limitations which the Commission places on case-specific exemptions (*e.g.*, a 5 MW or less project within an existing licensed project may not ordinarily be exempted).

[6] *See* diagrams attached to the mimeograph version of this notice available at the Commission's Division of Public Information during regular business hours. The diagrams are also filed as a part of the original document.

[7] The height limitation for diversion or intake structures and for pondage are based on the distinction drawn by the Congress for the National Program of Inspection of Dams, Act of August 8, 1972, 44 U.S.C. 467 *et seq.* However, the pondage limitation in the rule is one acre-foot, as opposed to 15 acre-feet in the statute.

structure will not be a dam within the meaning of the proposed rule, it need not be "existing" on or before April 20, 1977, in order to qualify a project for exemption.

The Commission's experience in licensing hydroelectric projects with a capacity of 5 MW or less and the record on case-specific exemptions under Order No. 106 demonstrate that by far the most feasible kind of natural water feature project is the project which removes by means of a diversion structure some water from a stream with a steep gradient. The diversion structure may be a log, rock piles, a submerged intake box, or a wood or concrete structure that spans all or part of the stream. All of these works serve the same basic function, that is, to remove some portion of the water from the streambed for delivery to a powerplant. Such structures are not designed to impound water for daily, weekly, monthly, or seasonal flow regulation, storage, or peaking operations.

Were the Commission to treat all diversion structures as dams and therefore require that, to be exemptible, such structures must have existed on or before April 20, 1977, very few, if any, natural water feature projects would be exemptible under section 408 of the ESA. Several factors indicate this. The technical and economic attractiveness of small diversion-type projects is a relatively recent phenomenon and few diversion structures otherwise qualified to be natural water feature projects were built before April 20, 1977. In addition, most exemptible natural water feature projects which utilize diversion structures would be located in the West and will frequently take advantage of seasonal heavy flows, thus standing idle for much of the year. Order No. 106 (*see* § 4.102(l) and (m)) requires that new or additional capacity be installed in order to qualify for exemption, but maximum feasible capacity is usually installed at these projects when they are developed; adding an increment of capacity to an existing project is therefore not economically feasible for such projects. This means that only new diversion projects will generally be exemptible. Moreover, the opportunities to utilize an elevated lake to develop the new or additional capacity required for exemptions are extremely limited.

The Commission believes that Congress did not intend that the authority provided the Commission to exempt natural water feature projects should be so narrowly applied as to become insignificant. A statute should be construed so that no clause, sentence, or word becomes superfluous, void, or insignificant.[8] Congress' specific reference to the exemptibility of any project which utilizes a natural water feature could become insignificant or superfluous, if diversion facilities were considered not to be natural water feature projects. In addition, unnecessarily narrow or strict interpretations of a statute granting administrative powers should not be allowed to defeat its obvious purpose.[9] A major purpose of Title IV of the ESA is "to provide further encouragement for the development of small hydroelectric power projects."[10] The approach proposed in this rulemaking would enable a greater number of projects with entirely new capacity to qualify for exemption and would thereby promote this statutory objective. A more restrictive approach would compel the developers of most such projects to seek a license and could frustrate the very statutory purpose for permitting the Commission to exempt natural water feature projects from provisions of the Act.

The rule also proposes to revise the definition of "dam", as it applies to exemptions, to distinguish diversion structures from other kinds of project works. The term "impoundment," when used in conjunction with "dam," connotes a project designed to obstruct the stream flow and, by backing up large quantities of water, create hydraulic pressure (head) behind the impoundment structure. As proposed, the revised definition of "small hydroelectric power project" is intended to convey the idea that diversion facilities do not restrain the quantity of stream flow necessary to create head. The power potential naturally present at such sites is made available for power generation merely by delivering the water in a manner which takes full advantage of *natural* topographical features. The minimum pondage necessary to force water into a penstock and create favorable hydraulic conditions, such as preventing air from entering the penstock, is not an impoundment as that term is normally understood.

*C. Case-Specific Versus Categorical Exemption*

At the time the Commission conducted hearings on the proposed categorical exemption rule in Docket No. RM81-7,[11] it received oral and written comment on the nature and location of natural water feature projects and whether such project could be defined in sufficiently precise terms for a categorical exemption. The Commission examined the plausibility of exempting all such projects by operation of a generic rule which would provide generic terms and conditions of exemption. It determined that categorical exemption of natural water feature projects is not feasible for various reasons.

First, the configuration and probable location of the project works which would be constructed to utilize a natural water feature are difficult to ascertain generically. This is partly because there are a variety of topographical circumstances where such projects could be developed. Second, the environmental concerns that would attend generic exemption procedures for such developments would be difficult to assess, thereby leading to generic terms and conditions that might be to extensive or otherwise inappropriate for any particular exemptible project. These problems suggest that case-specific exemption is both the most practical and efficient approach to the exemption of natural water feature projects.

The propriety of case-specific, as opposed to categorical, exemption for natural water feature projects is reinforced by the words of the statute which states that an exemption must be "without any adverse environmental effect upon such natural water feature". The case-specific procedures permit the Commission and the relevant state and Federal fish and wildlife agencies to ascertain whether the affected water feature would suffer adverse impacts which could not be mitigated by the design features of the proposed project works, adjustments to the operation of the proposed project, or by means of the terms and conditions of exemption. For example, sufficient stream flows or minimum diversions could be prescribed for particular projects under case-specific review to ensure continued protection of water quality and downstream fish and plant populations. Since review by appropriate environmental agencies will occur for each exemptible projects under the case-specific procedures, the Commission believes that the exemption rule will not result in adverse impacts on natural water features.

---

[8] *See* generally, 2A (Sutherland) Statutes and Statutory Construction, (4th ed. 1973) at § 46.06.

[9] 3 Sutherland, at § 65.03.

[10] Section 402 of the ESA, 29 U.S.C. 7372.

[11] Notice of Proposed Rulemaking, "Exemption from Licensing Requirements of Part I of the Federal Power Act of Certain Categories of Small Hydroelectric Power Projects with an Installed Capacity of 5 Megawatts or Less," issued December 22, 1980, 46 *Fed. Reg.* 1291, January 6, 1981. The Commission issued a Final Rule in this docket on October —, 1981, designated as Order No.?

With respect to environmental impacts, an examination of the physical relationships between the dam height, impoundment volume, and typical minimum flow restrictions shows the maximum stream segment affected, as well as the area more typically affected. For a stream which has a width of 50 feet, the maximum affected length of river segment covered by "pondage" behind a diversion structure would be 600 feet. This maximum impact would be associated with diverting flows on a stream with a gradient of 50 ft./mile, usually a highly uneconomical proposition. A more typical range of impacted stream lengths and impoundment volumes for the type of stream gradients of interest are as follows:

| Stream width (feet) | Pondage volume (acre-feet) | Gradient (foot/mile) | Length affected (feet) |
|---|---|---|---|
| 25 | .25 | 100 | [1] 310 |
| 50 | .50 | 100 | 310 |
| 25 | .03 | 2000 | [2] 15 |
| 50 | .06 | 2000 | 15 |

[1] Maximum case.
[2] Minimum case.

In addition, state agencies with responsibilities for managing fish and wildlife may prescribe, during case-specific consultations, minimum flow requirements at the diversion structure sufficient to protect the aquatic habitat in the stream between the points in the stream where water is diverted and where it is subsequently reintroduced after power production. The rate of flow downstream of the powerplant would be the same as would occur naturally. Examples of a minimum flow prescribed by an agency for the stream segment between the diversion and discharge points might be the continuous natural minimum flow of the stream or the flow equaled or exceeded at the site 85 or 90 percent of the time.

## II. Other Revisions

### *A. Change in § 4.33(a)*

The Commission proposes to amend § 4.33(a)(2) of its regulations, consistent with changes made in a recent order.[12] The amendment would preclude the filing of notices of intent to file a preliminary permit application for natural water feature projects but would also provide 30 days more for filing competing permit applications than notices of initial permit applications customarily provide for the filing of protests, interventions and competing applications. This provision is currently applied to projects located at existing dams. The so-called natural water feature projects, physically limited by the terms of § 4.102(1)(2), generally have the same conceptual simplicity as existing dam projects that makes it feasible to restrict somewhat the time available to competitors to prepare and file competing applications.

The proposed rule would also prevent one applicant from filing more than one notice of intent in a single proceeding.

### *B. Change in § 4.104*

Section 4.104 of the Commission's regulations establishes definite relationships among exemptions, permits, licenses, and applications for any of these authorizations, if the subject of several applications and a Commission action pursuant to an application is the same hydroelectric power site or a mutually exclusive site. Paragraph (a)(2)(i) of § 4.104 addresses the appropriate timing of a competing exemption application when a preliminary permit application (and perhaps additional competing permit applications) have been filed. If there is more than one preliminary permit filed for a single site, it is unclear which public notice period (provided for each permit application) is the appropriate window for filing a competing exemption application. In other words, submittal of a second and competing permit application could, under § 4.104(a)(2)(i), afford a project owner sixty more days, in addition to the notice period on the initial permit application, to file an exemption application. This was not the Commission's intent. Competing applications for exemption or notices of intent to file such applications must be filed during the notice period for the initial permit application.

Section § 4.104(a)(2)(i) is amended to indicate that an application for exemption which competes with a first-filed preliminary permit application must be filed within the notice period for the "initial" permit application, without regard to any subsequently filed competing permit applications for which additional notice periods are provided.

## III. Certification of No Significant Economic Impact

The Regulatory Flexibility Act (RFA) requires certain analysis of proposed agency rules that will have a "significant economic impact on a substantial number of small entities."

Pursuant to section 605(a) of the RFA, the Commission hereby finds that the analysis requirements set forth in the statute do not apply to this rulemaking.

The primary purpose of this proposal is to clarify exemption procedures already established for small hydroelectric power projects and to expand, to some extent, the kinds of projects which could be exempted under the rubric of "natural water feature projects." However, the Commission cannot estimate which entities will apply for exemption for natural water feature projects and therefore what the impact on small entities will be. Although the proposed exemption rule may assist small private developers or municipalities to obtain exemption, it will not assist this group any more or any less than others. Accordingly, on balance, there seems to be no significant impact.

If, in a final rule, the Commission were to provide for exemption of diversion-type projects, as this rule proposes, small entities which would otherwise be required to obtain a license for certain small hydroelectric power projects could resort to exemption. Moreover, by limiting the use of notices of intent for such projects, the Commission wishes to avoid delays occasioned by the filing of notices of intent to submit competing preliminary permit applications for certain projects, in those instances. Concededly, this latter proposal will require would-be project sponsors (including small private developers and small municipalities) to reach a decision quickly about filing a competing application; this may create some minimal additional burdens for small private and public developers, but these slight burdens should be more than offset by the advantages small developers will realize by virtue of a shorter, less costly application process and more rapid Commission decision making. Accordingly, any net economic impact of this change would benefit any small private or municipal developer.

In view of the minimal effects of the proposed changes in the Order No. 106 definitions and the restriction on notices of intent, the Commission believes that certification of no significant economic impact is appropriate.

## IV. Comment Procedure

The Commission invites interested persons to submit written comments on the matters proposed in this notice. An original and 14 copies of such comments must be filed with the Commission not later than December 7, 1981. Comments submitted by mail should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Comments should indicate the name, title, mailing address and

[12] Order No. 183, "Revisions to Regulations Governing Applications for Preliminary Permits and License for Water Power Projects" (Docket No. RM81-15), issued October 29, 1981.

telephone number of the person to whom communications concerning the proposal should be addressed. Comments should reference Docket No. RM82-2 on the outside of the envelope and on all documents therein. Written comments will be placed in the public files of the Commission and will be available for inspection at the Commission's Division of Public Information, Room 1000, address above, during regular business hours. The Commission will consider all comments submitted before final action.

(Energy Security Act of 1980, Pub. L. 96-264, 94 Stat. 611; Federal Power Act, as amended, 16 U.S.C. 792-828c; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645; and the Department of Energy Organization Act, 42 U.S.C. 7101-7352; E. O. 12009, 3 CFR 142 (1978))

In consideration of the foregoing, the Commission proposes to amend Part 4 of the Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

**Kenneth F. Plumb,**

*Secretary.*

## PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

1. Section 4.33 is amended by revising paragraph (a)(2) to read:

**§ 4.33 Filing and disposition of conflicting applications.**

(a) * * *

(2) A notice of intent to file a competing application for preliminary permit may not be submitted for any proposed major project—existing dam as defined in § 4.50(b)(5) of this chapter, any proposed minor water power project, as defined in § 4.60(b)(4) of this chapter, which utilizes an existing dam, or any water power project with an installed capacity of 5 megawatts or less which utilizes a natural water feature, as defined in § 4.102(1)(2). Any competing application for preliminary permit for a proposed major project—existing dam, minor water power project which utilizes an existing dam, or water power project 5MW or less which utilizes a natural water feature, must be submitted not later than 30 days after the last date for filing protests and petitions to intervene prescribed in the public notice issued under § 4.31[c](2) of this chapter for the initial application. A competing applicant may file only one notice of intent for any project site during a license, permit, or exemption proceeding.

* * * * *

2. Section 4.102 is amended by revising paragraph (a) and paragraph (l)(2) to read as follows. The introductory text of paragraph (l) is shown for the convenience of the user.

### Subpart K—Exemption of Small Hydroelectric Power Projects of 5 Megawatts or Less

* * * * *

**§ 4.102 Definitions.**

For purposes of this subpart—

(a) "Dam" means any structure for impounding water which is usable for electric power generation, if the impoundment supplies all, or the substantial part of, the total hydraulic pressure (head) developed for such generation.

* * * * *

(l) "Small hydroelectric power project" means any project in which capacity will be installed or increased after the date of application under this subpart and which will have a total installed capacity of not more than 5 megawatts and which:

* * * * *

(2) Would utilize for the generation of electricity a natural water feature, such as a natural lake, waterfall, or the gradient of a natural stream, without the need for a dam and man-made impoundment, and contains a diversion or intake structure which:

(i) Does not exceed six feet in height from the lowest point of the natural streambed at the downstream toe of the structure to the lowest point on the crest of the structure; and

(ii) Does not create pondage of more than one acre-foot (1233.5 cubic meters) of water.

3. Section 4.104 is amended by revising paragraph (a)(2)(i) to read:

**§ 4.104 Relationships among applications, exemptions, permits, and licenses.**

* * * * *

(a) *Limitations on submission and acceptance of exemption applications.*

* * * * *

(2) *Pending permit or license application.* (i) *Pending permit application.* If a preliminary permit application for a project has been accepted for filing, an application for exemption of that project from licensing or a notice of intent to submit such an application may be submitted not later than the last date for filing protests or petitions to intervene prescribed in the public notice issued for the initial permit application under § 4.31(c)(2) of this chapter.

* * * * *

[FR Doc. 81-32564 Filed 11-9-81; 8:45 am]

BILLING CODE 6717-01-M

---

**18 CFR Part 271**

**[Docket No. RM79-76 (Texas-14)]**

## High-Cost Gas Producted From Tight Formations; Wolfcamp Formation

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of proposed rulemaking.

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

**DATE:** Comments on the proposed rule are due on December 4, 1981. *Public Hearing:* No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on November 19, 1981.

**ADDRESS:** Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

**FOR FURTHER INFORMATION CONTACT:** Leslie Lawner, (202) 357-8307, or Walter W. Lawson, (202) 357-8556.

**SUPPLEMENTARY INFORMATION:**

Issued: November 4, 1981.

### I. Background

On September 21, 1981, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Wolfcamp Formation in the Gomez, N.W. (Wolfcamp) Field in the northern portion

of Pecos County and in the Wolf (Wolfcamp) Field in the extreme southwest portion of Loving County, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Wolfcamp Formation in these two fields be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

**II. Description of Recommendation**

Texas recommends that the Gomez, N.W. (Wolfcamp) Field and the Wolf (Wolfcamp) Field where the Wolfcamp Formation is encountered be designated as a tight formation. The Gomez, N.W. (Wolfcamp) Field is located in northern Pecos County northwest of Fort Stockton, Texas, and contains approximately 24,457 acres. The Wolf (Wolfcamp) Field is located in the extreme southwestern portion of Loving County, between the town of Mentone, Texas, and the Pecos River in section 78, 79, 80, 81, 82 in Block 33, H&TC RR Company Survey. Both fields are part of Railroad Commission District 8.

The vertical interval requested for tight formation designation in the Gomez, N.W. (Wolfcamp) Field is that interval from 11,384 feet to 11,720 feet in the log of the Forest Oil Corporation No. 1 Garupa well. The zone has sands which were deposited in the submarine fan complex and are poorly sorted containing low values of porosity and permeability.

The gross thickness requested in the Wolf (Wolfcamp) Field is from 10,118 feet to 10,696 feet as measured in the log of the Cobb No. 1 Wolf well. The producing zone is a low permeability reservoir of detrital nature deposited in the deep Delaware Basin under low energy conditions.

**III. Discussion of Recommendation**

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Wolfcamp Formation in the Gomez, N.W. (Wolfcamp) Field and the Wolf (Wolfcamp) Field as described and delineated in Texas' recommendation as filed with the Commission be designated as a tight formation pursuant to § 271.703.

**IV. Public Comment Procedures**

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before December 4, 1981. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Texas—14), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than November 19, 1981.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3342)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

**Kenneth A. Williams,**

*Director, Office of Pipeline and Producer Regulation.*

## PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraph (d)(74) to read as follows:

**§ 271.703 Tight formations.**

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, subindexed as indicated, and is also located in the offical files of the jurisdictional agency that submitted the recommendation.

* * * * *

(56) through (73) [Reserved]

(74) *Wolfcamp Formation in Texas.* RM79-76 (Texas—14).

(i) *Gomez, N.W. (Wolfcamp) Field.*

(A) *Delineation of formation.* The Wolfcamp Formation in the Gomez, N.W., (Wolfcamp) Field is located in northern Pecos County, northwest of Fort Stockton, Texas, and contains approximately 24,457 acres.

(B) *Depths.* The top and base of the Wolfcamp Formation are found at the approximate depths of 11,384 feet and 11,720 feet, respectively as measured in the log of the Forest Oil Corporation No. 1 Garupa Well.

(ii) *Wolf (Wolfcamp) Field.*

(A) *Delineation of formation.* The Wolfcamp Formation in the Wolf (Wolfcamp) Field is located in extreme southwest Loving County between the town of Mentone, Texas, and the Pecos River in Sections 78, 79, 80, 81, 82, in Block 33, H&TC RR Company Survey.

(B) *Depths.* The top and base of the Wolfcamp Formation are found at the approximate depths of 10,118 feet and 10,696 feet, respectively, as measured in the log of the Cobb No. 1 Wolf Well.

[FR Doc. 81-32464 Filed 11-9-81; 8:45 am]

BILLING CODE 6717-01-M

**18 CFR Parts 271, 273, and 274**

**[Docket No. RM80-38]**

## High-Cost Natural Gas Produced From Wells Drilled In Deep Water; Availability of Environmental Assessment

November 6, 1981.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Availability of environmental assessment.

**SUMMARY:** Notice is hereby given in Docket No. RM80-38 that on October 29, 1981, the Federal Energy Regulatory Commission (FERC) staff made available to the public an environmental assessment (EA) evaluating the proposed rule issued on July 11, 1980 (45 FR 47,863). This rule would establish an incentive price of 175 percent of the Natural Gas Policy Act (NGPA) section 102 price for natural gas produced offshore at a water depth of greater than 300 feet. Implementation of the proposed rule would encourage production of natural gas offshore in deep water—where extraordinary risks or costs are involved.

The EA concludes that implementation of the rule would not constitute a major Federal action significantly affecting the quality of the human environment.

**DATE:** The Commission invites all interested parties to file comments on this EA by December 10, 1981.

**ADDRESS:** File comments with: Kenneth F. Plumb, Secretary, FERC, 825 North Capitol Street, N.E., Washington, D.C. 20426.

This EA has been placed in the FERC's public files and is available for public inspection in the FERC's Office of Congressional and Public Affairs, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426. Copies are available in limited quantities upon request.

**FOR FURTHER INFORMATION CONTACT:** Requests for further information should be addressed to Mr. George H. Taylor, Project Manager, FERC, Room 7102, 825 North Capitol Steet, N.E., Washington, D.C. 20426, telephone (202) 357-5365.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 81-32465 Filed 11-9-81; 8:45 am]

BILLING CODE 6717-01-M

**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**25 CFR Part 258**

## Indian Fishing—Hoopa Valley Indian Reservation

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of the Interior is proposing to amend its conservation regulations governing Indian fishing on the Hoopa Valley Indian Reservation to prohibit the waste of fish and to alleviate some enforcement problems.

**DATE:** Comments must be received no later than December 10, 1981.

**ADDRESS:** Written comments should be addressed to the Area Director, Sacramento Area Office, Bureau of Indian Affairs, Federal Building, 2800 Cottage Way, Sacramento, California 95825.

**FOR FURTHER INFORMATION CONTACT:** Wilson Barber, Superintendent, Hoopa Agency, Bureau of Indian Affairs, P.O. Box 367, Hoopa, California 95546, telephone (916) 625-4285.

**SUPPLEMENTARY INFORMATION:** The Department of the Interior is responsible for the supervision and management of Indian Affairs under 43 U.S.C. 1457, 25 U.S.C. 2 and 9 and the Reorganization Plan No. 3 of 1950 (64 Stat. 1262), including the protection of Indian fishing rights.

Normally tribal governments are responsible for regulation of Indian fishing on a reservation. Tribal regulation on the Hoopa Valley Indian Reservation has not been possible because the reservation is shared by two tribes, one of which does not currently have a functioning government. The Bureau of Indian Affairs has made efforts to assist the Yurok Tribe in developing an organized government that will be able to participate with the Hoopa Valley Tribe in regulation of the Indian fishery. To date, however, these efforts have not met with success. While the efforts to resolve the organizational problems continue, the Department will continue to regulate the fishery to assure the continued existence of this valuable tribal asset.

Most of these proposed amendments were circulated in draft form among Indians of the Hoopa Valley Reservation beginning in April of this year and were discussed with the Indian community in meetings on the reservation. One proposed change requiring a court order to stay the sentence imposed on a person convicted of violating the regulations pending appeal received no adverse comment. That change was designed to prevent violators from deferring a suspension of their fishing rights beyond the current fishing season by filing frivolous appeals. It was considered the most important of the proposed changes. Since it was both important and not controversial, it was promulgated and made effective on an expedited basis by publication in the Federal Register on August 10, 1981. 46 FR 40510.

The only change being proposed in this document that was not included in the draft circulated earlier is the addition of a definition of "snag gear." The proposed definition is based on language in the regulations of the California Fish and Game Commission. 14 Calif. Admin. Code §§ 2.10 and 2.20. The additional definition is proposed so that eligible fishers will be on notice as to what types of gear are prohibited. The definition is based on California's regulations to avoid any confusion that might result from using a different definition and to enable the Indian court to use state court case law in deciding cases.

Another change expanding the Monday closure was included in the draft regulations but is being modified in response to comments. Under the existing regulations, all nets must be out of the water between the hours of noon and four p.m. on Monday of each week. The closure is designed to limit waste resulting from fish being left in nets for more than a week. The draft amendments provided that all nets would have to be out of the water on Monday. The closure was to be expanded to include all of Monday so that law enforcement officers would have enough time to check the rivers throughout the reservation to assure that no nets were in the water. Some commenters objected to the expanded hours on the ground that it would prohibit fishing on Sunday night after midnight when some persons who fish only on weekends normally fish. For that reason it is proposed to expand the closure to include only the daylight hours on Monday. Law enforcement officers should be able to cover the entire river even if they begin well after sunrise and stop well before sunset. The officers will be able to avoid disputes about the precise time of day, which have occurred when enforcing the present four-hour closure rule.

It is proposed to add a new provision requiring that all fish caught in a gill net be preserved or consumed before they

rot. This requirement is needed to reduce waste of the resource. At present, the only provision of the regulations addressing the waste problem is the Monday closure. Especially when water temperatures are higher, however, fish will rot in the water in much less than one week. This requirement is needed to assure that nets are checked as frequently as necessary to avoid waste.

When this proposal was circulated in draft form, several persons objected on the grounds that the proposal implicitly and falsely accused the Indian community of wasting fish. It is recognized that the vast majority of Indian fishers take care to remove all captured fish promptly. Given the precarious state of the resource, however, wasting fish is a serious matter. Those few individuals who do waste part of the resource in this manner should be penalized for their actions.

It is also proposed to prohibit any fisher from fishing any net that is not identified with his or her number and to forbid the fishing of nets with more than one identification number on them. These changes will make it easier to determine whether an eligible fisher is fishing more nets than the regulations allow and to prove who is responsible for a net that is being fished in an illegal manner. In the past there have been problems of proof when a single net had several identification numbers on it. Some persons objected to this provision when it appeared in the draft regulations on the ground it would inconvenience some fishers who fish legally but like to share the responsibility of tending the net among several persons. The need to alleviate the current enforcement problems, however, appears to justify this minor inconvenience. Disabled eligible fishers may have other eligible fishers attend their nets under the procedures established in the revisions made last year to 25 CFR 258.8(h). 45 FR 74687, 74691, (November 10, 1980). The proposed rule would not prohibit the owner of the net from placing his or her name on the net to indicate ownership while it is being fished by someone else. The owner's number, however, should be on the net only when it is the owner who is fishing the net.

Two other minor changes are being proposed. Responsibility for selling seized fish is being assigned to the BIA superintendent instead of to law enforcement officers. The superintendent and his staff are in a better position to arrange for the sales than are law enforcement officers. The U.S. Fish and Wildlife Service is being designated as the recipient of the logsheets to conform to the address preprinted on those forms. The Fish and Wildlife Service has the expertise to evaluate the information in those logsheets.

The primary author of this document is David Etheridge, Office of the Solicitor, Division of Indian Affairs. Department of the Interior.

It has been determined that this proposed rule is not a major rule as that term is defined in Executive Order 12291 of February 17, 1981, 46 FR 13193, because it will have a minimal economic impact on a small number of people.

It has been determined that this proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 96–354 and the implementing regulations of the Interior Department, 43 CFR Part 14, 45 FR 85376.

## PART 258—INDIAN FISHING HOOPA VALLEY INDIAN RESERVATION

It is proposed to amend 25 CFR Part 258 as follows:

1. By redesignating paragraphs (p), (q) and (r) of § 258.4 as paragraphs (q), (r) and (s) of that section respectively and by adding a new paragraph (p) to that section to read as follows:

**§ 258.4 Definitions.**

* * * * *

(p) Snag gear includes:

(1) Any hook with more than one point or more than one hook point attached directly or indirectly to one line.

(2) Any multiple hook with shortest distance between hook points greater than 1.25 inches or shank longer than two inches, and

(3) Any weight exceeding one-half ounces attached to any multiple hook or to the line, directly or indirectly, within 18 inches of any multiple hook.

* * * * *

2. By revising paragraph (d)(1) of § 258.6 to read as follows:

**§ 258.6 Fisher identification card required.**

* * * * *

(d)(1) Each eligible Indian who holds a fisher identification card must file monthly logsheets reporting catch data during the calendar year covered by the card. A report must be filed each month whether or not the person reporting caught any fish during that month. The logsheet shall be filed with the U.S. Fish and Wildlife Service's Fishery Assistance Office in Arcata, California, by the 15th day of the month following the month covered by the logsheet. Logsheet forms are provided to Indian fishers by the Bureau of Indian Affairs.

* * * * *

3. By revising paragraph (c) of § 258.7 to read as follows:

**§ 258.7 Identification of gear.**

* * * * *

(c) No eligible fisher may:

(1) Permit his or her identification number to be used on a net that is being attended or fished by someone else,

(2) Attend or fish a net that is not marked with his or her own identification number, or

(3) Attend or fish a net that has more than one identification number on it.

4. By revising paragraph (a) of § 258.8 and adding a new paragraph (e)(10) to that section to read as follows:

**§ 258.8 Permissible and prohibited fishing.**

(a) The Hoopa Valley Indian Reservation is open to the taking of salmon, steelhead and sturgeon by eligible Indians for subsistence and ceremonial purposes unless specifically closed by these regulations or by in-season and emergency regulations promulgated under § 258.11. Fishing is permitted seven days per week and 24 hours per day except that all nets must be out of the water between sunrise and sunset on Monday of each week.

* * * * *

(e) Restrictions on fishing * * *

(10) Eligible fishers shall cause any fish they catch in a gill net to be preserved or consumed before the fish rot.

* * * * *

5. By revising paragraph (b)(6) of § 258.14 to read as follows:

**§ 258.14 Enforcement.**

* * * * *

(b) * * *

(6) The Hoopa Agency Superintendent shall promptly sell all seized fish and hold the proceeds pending adjudication of the charge that was the basis for the seizure. Proceeds from sales of fish that are found, upon adjudication, to have been illegally taken shall be transferred to special Hoopa-Yurok Fund in the U.S. Treasury.

Dated: October 6, 1981.

**Donald Paul Hodel,**

*Under Secretary of the Interior.*

[FR Doc. 81-32488 Filed 11-9-81; 8:45 am]

BILLING CODE 4310-02-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

[LR-10-81]

### Mortgage Subsidy Bonds; Cross-Reference to Temporary Regulations

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations portion of this Federal Register, the Internal Revenue Service is issuing amendments to temporary income tax regulations that relate to mortgage subsidy bonds. The text of these amendments also serves as the comment document for this proposed rulemaking.

**DATES:** Written comments and requests for a public hearing must be delivered or mailed by January 11, 1982. The regulations are proposed to be effective for obligations issued after April 24, 1979.

**ADDRESS:** Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-10-81), Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** Harold T. Flanagan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3294).

**SUPPLEMENTARY INFORMATION:**

#### Background

The temporary regulations in the Rules and Regulations portion of this issue of the Federal Register amend the Temporary Regulations under Title 11 of the Omnibus Reconciliation Act of 1980 (26 CFR Part 6a) under section 103A of the Internal Revenue Code of 1954, which were published in the Federal Register for July 1, 1981 (46 FR 34311). The final regulations, which this document proposes to be based on amendments to the temporary regulations, would be added to Part 1 of Title 26 of the Code of Federal Regulations. For the text of the amendments to the temporary regulations, see FR Doc. 81-32480 (T.D. 7794) published in the Rules and Regulations portion of this issue of the Federal Register. The preamble to the temporary regulations explains the amendments to the regulations.

The temporary regulations as amended interpret the provisions of section 103A of the Internal Revenue Code of 1954 which provides that a mortgage subisdy bond shall be treated as an obligation not described in section 103(a) (1) or (2) the interest on which shall not be excludable from gross income. Section 103A allows exceptions to this general rule for qualified mortgage bonds and qualified veterans' mortgage bonds.

These regulations are proposed to be issued under the authority contained in section 7805 of the Internal Revenue Code (26 U.S.C. 7805; 68A Stat. 917).

#### Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and 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).

#### 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 six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will published in the Federal Register.

**Roscoe L. Egger, Jr.,**

*Commissioner of Internal Revenue.*

[FR Doc. 81-32481 Filed 11-5-81; 11:48 am]

BILLING CODE 4830-01-M

---

### 26 CFR Part 1

[EE-169-78]

### Certain Cash or Deferred Arrangements Under Employee Plans

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to certain cash or deferred arrangements under employee plans. Changes in the applicable tax law were made by the Revenue Act of 1978. The regulations would provide the public with the guidance needed to comply with the Act and would affect employees who are entitled to make elections under certain cash or deferred arrangements.

**DATES:** Written comments and requests for a public hearing must be delivered or mailed by January 11, 1982. The amendments are generally proposed to be effective for plan years beginning after December 31, 1979.

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

**FOR FURTHER INFORMATION CONTACT:** Charles M. Watkins of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:EE) (202-566-3430) (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 401(k) and section 402(a)(8) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 135 of the Revenue Act of 1978 (92 Stat. 2785) 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).

#### History

Prior to 1972, the Internal Revenue Service treatment of tax-qualified plans where employees had the option of receiving direct cash payments or having employers contribute an equal amount to the plans was illustrated in Revenue Ruling 56-497 (1956-2 C.B. 284), Revenue Ruling 63-180 (1963-2 C.B. 189), and Revenue Ruling 68-89 (1968-1 C.B. 402). Generally, employer contributions to these plans were not considered constructively received by the employees. Therefore, employees were not presently taxed on these contributions. If the plans met the other requirements for qualification, and if the cash or deferred arrangements with respect to the contributions made to the trusts forming part of the plans met the enumerated tests of these rulings, they would be considered qualified.

On December 6, 1972, the Internal Revenue Service issued proposed regulations which called into question the tax treatment of contributions made at the direction of employees under cash or deferred arrangements to these qualified plans. In order for Congress to have time to study this area, section 2006 of the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406, 88 Stat. 992) ("ERISA") was enacted. That

section provided that for those qualified plans in existence on or before June 27, 1974, the three above-mentioned revenue rulings would be controlling through December 31, 1976. Further, for plans coming into existence after June 27, 1974, contributions made at the direction of employees under cash or deferred arrangements were considered employee contributions and thus were presently taxable to the employee.

The status-quo treatment of ERISA section 2006 was extended through December 31, 1979, by section 1506 of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1739) and by section 5 of the Foreign Earned Income Act of 1978 (Pub. L. 95–615, 92 Stat. 3097).

### New Law—In General

For plan years beginning after December 31, 1979, section 135 of the Revenue Act of 1978 (Pub. L. 95–600, 92 Stat. 2785) provides two new rules relating to amounts that employees elect to defer under qualified cash or deferred arrangements.

First, the section specifically provides that if amounts deferred at an employee's election meet certain requirements relating to nonforfeitability and withdrawal, the deferred amounts will not be treated as made available to the employee or as employee contributions to the plan. the nonforfeitability requirement provides that amounts deferred under the arrangement, and the earnings on those amounts, must be nonforfeitable. The withdrawal limitation requires that no amounts may be distributed earlier than death, disability, retirement, separation from service, the attainment of age 59½ or upon a finding of hardship. In service distributions or withdrawals by reason of the completion of a stated period of participation or the lapse of a fixed number of years are prohibited.

Second, the new section adds detailed, mechanical antidiscrimination rules for cash or deferred arrangements. Under these rules, both the eligibility requirements in section 410(b)(1) and the antidiscrimination requirements in section 401(a)(4) are satisified with respect to those eligible employees who actually participate if the class of employees eligible to elect deferrals under the arrangement satisfies one of the tests in section 410(b)(1) and the ratios of the amounts deferred, as a percentage of compensation, by eligible employees are within the two standards enumerated in new Code section 401(k).

In general, the two deferral ratio tests involve a comparison of the amounts deferred by the highest paid one-third of eligible employees, as a percentage of compensation, to the amounts deferred by the remainder of the eligible employees.

Under one standard, the antidiscrimination requirement is satisfied if the average deferral by the highest paid one-third is not more than 1.5 times the average deferral by the other employees. For example, if lower paid employees elected to defer an average of 10 percent of their compensation, this standard would be satisfied if the highest paid one-third deferred an average of not more than 15 percent of their compensation.

The second standard involves a comparision of average deferral percentages in two steps. First, the average deferral for the highest paid one-third may not be more than three percentage points greater than the average deferral by the remainder of employees. Second, the average deferral for the highly paid cannot be more than 2.5 times the average deferral of the remainder of employees. For example, if the lower paid employees elected to defer an average of two percent of their compensation, then the second standard would be satisfied if the highest paid employees elected to defer an average of five percent of pay since (A) five percent is not more than three percentage points greater than two percent, and (B) five percent is not greater than 2.5 times the average deferral of the lower paid.

For purposes of determining these average deferral percentages, only those deferred amounts which satisfy the nonforfeitability and withdrawal rules applied under the qualified cash or deferred arrangement definition may be taken into account. Employer contributions under the Federal Insurance Contribution Act may not be taken into account for purposes of determining the deferral percentages.

### Fail Safe Device

Neither the Revenue Act of 1978 nor the legislative history of the provision which became section 135 of that Act (H.R. Rep. No. 95–1445, 95th Cong., 2d Sess. 65 (1978); S. Rep. No. 95–1263, 95th Cong., 2d Sess. 76 (1978); H.R. Rep. No. 95–1800, 95th Cong., 2d Sess. 206 (1978)) require a provision for fail-safe devices or other mechanisms that will assure compliance with the antidiscrimination requirements applied to qualified cash or deferred arrangements. However, the proposed regulations incorporate a special rule which recognizes the need for an administrable and automatic procedure that satisfies the new requirements.

This rule allows employer contributions which were not subject to any employee election to be used in satisfying the deferral percentage tests. However, in order to be consistent with the principles of the cash or deferred provisions, only employer contributions which satisfy the nonforfeitability and withdrawal limitations applied to elected deferrals may be used in computing the percentage. This rule enables a plan sponsor to assure that one of the antidiscrimination tests always is satisfied. For example, if an employer contributes 5 percent of compensation of each eligible employee to a plan and also allows each eligible employee to elect to defer all or part of an additional 2.5 percent of compensation, then, assuming the classification of eligible employees satisfies section 410(b)(1) and all employer contributions satisfy the nonforfeitability and withdrawal requirements, the plan will always satisfy the antidiscrimination standard because even if all of the highest paid one-third elect deferral and all of the remainder of employees elect current cash, the average deferrals for the high paid (7.5 percent) cannot be more than 1.5 times the average deferrals for the other employees (5 percent).

Comments are requested as to any additional fail-safe devices that plans could utilize to satisfy the nondiscrimination requirements.

### Scope of Deferral Rules

While the proposed regulations allow employer contributions made without an employee's election to be included in computing the deferral percentages, this device may not be used to circumvent the basic antidiscrimination rules applied to qualified profit sharing and stock bonus plans. Thus, the proposed regulations prohibit any arrangement attempting to take advantage of the mechanical antidiscrimination tests in section 401(k)(3) from providing a discriminatory level of contributions. For example, a plan could not use the antidiscrimination tests to provide a contribution, without election, equal to 10 percent of the compensation of rank and file employees while providing a contribution of 15 percent of compensation to the highly paid employees.

The proposed regulations indicate that an important element of a qualified cash or deferred arrangement is the total amount subject to deferral. Thus, as long as the total amount subject to deferral is nondiscriminatory, the plan will be allowed to apply the mechanical antidiscrimination tests. For example, a plan provides that the highly paid one-third may elect to have all or a portion of 15 percent of their compensation paid

in cash or deferred. The plan also provides that the remainder of employees will have 10 percent of their compensation contributed without being subject to an election, and that an additional five percent will be subject to the cash or deferred election. If the 10 percent contributed on behalf of the lower paid employees satisfies the nonforfeitability and withdrawal rules applied to elected deferrals, the plan will satisfy the antidiscrimination tests in section 401(k)(3) and will not be deemed to be discriminatory merely because of the difference in the amounts subject to the election.

Finally, the proposed regulations provide that the antidiscrimination tests, which are effectively safe harbors, apply only to amounts which satisfy the nonforfeitability and withdrawal requirements for elected deferrals. For example, additional employer contributions which "match" amounts used in computing deferral percentages but which are not fully vested and subject to withdrawal limitations would not be entitled to protection under the antidiscrimination tests in section 401(k)(3).

### Salary Reduction

The proposed regulations specifically recognize that a qualified cash or deferred arrangement may be in the form of a salary reduction agreement. Under such an agreement an employee could elect, for example, to reduce his or her current compensation or to forgo an increase in compensation, and to have the forgone amounts contributed to the plan on his or her behalf.

### Failure to Satisfy Requirements

The consequences of not satisfying the new requirements include the present inclusion of employer contributions deferred at the employee's election under the cash or deferred arrangement in the income of the employee, even if the rest of the plan remains qualified. Also, the special nondiscrimination rules may not be used if the other new requirements are not satisfied.

### Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

### Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

### Drafting Information

The principal author of these proposed regulations was Leonard S. Hirsh of the Employee Plans and Exempt Organizations Division of the Office of the 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.

### *Proposed amendments to the regulations*

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

## PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

**Paragraph 1.** The following new § 1.401(k)-1 is added immediately after § 1.401(j)-6:

**§ 1.401(k)-1 Certain cash or deferred arrangements.**

(a) *In general.* (1) *General rule.* Any profit-sharing or stock bonus plan shall not fail to satisfy the requirements of section 401(a) merely because the plan includes a qualified cash or deferred arrangement. For purposes of this section, a cash or deferred arrangement is any arrangement which is part of a profit-sharing or stock bonus plan under which an eligible employee may elect to have the employer contribute an amount to a trust under the plan or to have the amount paid to the employee in cash. The arrangement may also be in the form of a salary reduction agreement between an eligible employee and the employer under which a contribution will be made only if the employee elects to reduce his compensation or to forgo an increase in his compensation. The eligible employee may be given the option under the arrangement to have a portion of the amount that is subject to the election contributed to a trust under the plan and a portion of the amount paid to the eligible employee in cash. The plan of which the arrangement is a part may provide for contributions, both employer and employee, other than those subject to the election.

(2) *Treatment of contributions under the qualified arrangement.* Employer contributions to a plan under a qualified cash or deferred arrangement are not includible in the employee's gross income; see § 1.402(a)–1(d).

(3) *Nonqualified arrangement.* A profit-shairng or stock bonus plan that includes a cash or deferred arrangement that is not qualified may, nevertheless, be a qualified plan under section 401(a). Even if the plan satisfies the requirements of section 401(a), contributions to the plan made at the election of the employee for the plan year are includible in the employee's gross income; see § 1.402(a)–1(d).

(4) *Qualified arrangement.* A qualified cash or deferred arrangement is an arrangement which is part of a plan satisfying the requirements of section 401(a) and the additional requirements set forth in paragraphs (b), (c) and (d) of this section.

(b) *Coverage and discrimination requirements*—(1) *Arrangement alone.* This paragraph applies if a plan consists only of elective contributions. This plan shall satisfy this paragraph for a plan year if the plan satisfies either the general rules in paragraph (b)(3) or the special rules in paragraph (b)(4) of this section, for such plan year.

(2) *Combined plan.* This subparagraph applies if a plan consists of both elective contributions and non-elective contributions. This plan shall satisfy this paragraph if it satisfies either paragraph (b)(2)(i), (ii), or (iii) of this section.

(i) The combined elective and non-elective portions of the plan satisfy the general rules in paragraph (b)(3) of this section.

(ii) The non-elective portion of the plan satisfies the general rules in paragraph (b)(3) of this section and the elective portion of the plan satisfies the special rules in paragraph (b)(4) of this section.

(iii) The non-elective portion of the plan satisfies the general rules in paragraph (b)(3) of this section and the combined elective and non-elective portions of the plan satisfy the special rules in paragraph (b)(4) of this section.

(iv) In applying the test in paragraph (b)(2)(iii) of this section the non-elective portion of the plan may only be considered in applying the special rules to the extent that such contributions satisfy the requirements in paragraphs (c) and (d) of this section.

(3) *General cash or deferred discrimination rules.* A plan (or portion of a plan) will satisfy these rules if it satisfies the requirements of section

410(b)(1) and section 401(a)(4). In testing whether the requirements of section 410(b)(1) are satisfied, the employes who benefit from the plan may be either (i) the eligible employees or (ii) the covered employees. In testing for discrimination under section 401(a)(4), the eligible or covered employees will be considered depending on the group used to satisfy section 410(b)(1).

(4) *Special cash or deferred discrimination rules.* A plan (or portion of a plan) will satisfy these rules if the eligible employees satisfy section 410(b)(1) and the contributions satisfy one of the alternative actual deferral percentage tests in paragraph (5). For purposes of this subparagraph, in applying section 410(b)(1), all eligible employees are considered to benefit from the plan.

(5) *Actual deferral percentage test.* (i) The actual deferral percentage test is satisfied if either of the tests specified in paragraph (b)(5)(ii) or (iii) of this section is satisfied.

(ii) The actual deferral percentage for the eligible highly compensated employees (top ⅓) is not more than the actual deferral percentage of all other eligible employees (lower ⅔) multiplied by 1.5.

(iii) The excess of the actual deferral percentage for the top ⅓ over the lower ⅔ is not more than three percentage points, and the actual deferral percentage for the top ⅓ is not more than the actual deferral percentage of the lower ⅔ multiplied by 2.5.

(6) *Nondiscriminatory deferrals.* A plan will not satisfy this paragraph unless the total amounts subject to deferral on behalf of both the higher and lower paid employees is nondiscriminatory.

(7) *Time when contributions credited.* For purposes of applying the discrimination rules in paragraphs (b)(3) and (4) of this section for a particular plan year, a contribution will be considered for that plan year if it is allocated to the participant's account under the terms of the plan as of any date within that plan year. A contribution may be considered allocated as of any date within a plan year only if—

(i) Such allocation is not dependent upon participation in the plan as of any date subsequent to that date,

(ii) The non-elective contribution is actually made to the plan no later than the end of the period described in section 404(a)(6) applicable to the taxable year with or within which the particular plan year ends, and

(iii) The elective contribution is actually made to the plan no later than 30 days after the end of the plan year.

(8) *Definitions.* For purposes of this section the following definitions shall apply:

(i) *Eligible employee.* In any year, eligible employees are those employees who are eligible for employer contributions under the plan for that year.

(ii) *Covered employee.* In any year, covered employees are those employees whose accounts are credited with a contribution under the plan for that year.

(iii) *Non-elective contribution.* Non-elective contributions are those which were not subject to the cash or deferred election.

(iv) *Elective contribution.* Elective contributions are those which were subject to the cash or deferred election and which were deferred.

(v) *Actual deferral percentage.* The actual deferral percentage for the top ⅓ and lower ⅔ for a plan year is the average of the ratios, calculated separately for each employee in such group, of the amount of employer contributions paid under the plan on behalf of each such employee for such plan year, to the employee's compensation for such plan year.

(vi) *Employee compensation.* An employee's compensation is the amount taken into account under the plan prior to calculating the contribution made on behalf of the employee under the deferral election. However, if such amount has the effect of discriminating against the lower ⅔, a nondiscriminatory definition shall be determined by the Commissioner. It is permissible for a plan to calculate plan compensation other than on a plan year basis if it is calculated on a reasonable and consistent basis.

(vii) *Highly compensated employee.* For purposes of the actual deferral percentage test, a highly compensated employee is any eligible employee who receives, with respect to the compensation taken into account for that plan year, more compensation than two-thirds of all other eligible employees. Both ⅓ and ⅔ of the eligible employees shall be rounded to the nearest integer.

(9) *Examples.* The provisions of this paragraph are illustrated by the following examples:

*Example (1).* (i) Employees A, B, and C are the eligible employees and earn $30,000, $15,000 and $10,000 a year, respectively. These salary figures are used by the employer in determining contributions up to 10% of compensation to a profit-sharing plan under a qualified cash or deferred arrangement. Under the arrangement, each eligible employee may elect either to receive, in whole or in part, a direct cash payment of his allocated contribution, or to have the amount contributed by the employer to the plan. For a plan year A, B, and C make the following elections:

| Employee | Compensation | Elected contribution to plan | Cash election |
|---|---|---|---|
| A | $30,000 | $2,000 | $1,000 |
| B | 15,000 | 750 | 750 |
| C | 10,000 | 400 | 600 |

(ii) The ratios of employer contributions to the trust on behalf of each eligible employee to the employee's compensation for the plan year (calculated separately for each employee) are:

| Employee | Ratio of contribution to compensation | Individual's actual deferral percentage |
|---|---|---|
| A | 2,000/30,000 | 6.7 |
| B | 750/15,000 | 5 |
| C | 400/10,000 | 4 |

(iii) The actual deferral percentage for the top ⅓ is 6.7 percent (2,000/30,000), and the actual deferral percentage for the lower ⅔ is 4.5 percent

$$\left(\frac{5\%+4\%}{2}\right)$$

Because 6.7 percent is less than 6.75 percent (4.5 percent multiplied by 1.5) the first percentage test is satisfied.

*Example (2).* (i) Employees 1 thru 9 are the eligible employees who earn compensation as indicated in the table below. Employer A contributes to a profit-sharing plan. Employer A makes elective contributions as well as non-elective contributions. Under the plan, Employer A contributes on behalf of each employee a non-elective contribution equal to three percent of compensation. Under the cash or deferred arrangement, each employee may elect either to receive up to six percent of compensation as a direct cash payment or to have that amount contributed by Employer A to the plan. For a plan year employees 1 thru 9 make the following elections:

| Employee | Compensation | Non-elective contribution to plan | Elective contribution elected to be deferred under cash or deferred arrangement |
|---|---|---|---|
| 1 | $100,000 | $3,000 | $6,00 |
| 2 | 80,000 | 2,400 | 4,80 |
| 3 | 60,000 | 1,800 | 3,60 |
| 4 | 40,000 | 1,200 | 1,20 |
| 5 | 30,000 | 900 | 90 |
| 6 | 20,000 | 600 | 60 |
| 7 | 20,000 | 600 | 60 |
| 8 | 10,000 | 300 | 30 |
| 9 | 5,000 | 150 | 15 |

(ii) For the plan year under the cash or deferred arrangement the ratios of Employer

A's contributions on behalf of each employee to the employee's compensation are:

| Employee | Ratio of elective contribution to compensation | Individual's actual deferral percentage |
|---|---|---|
| 1 | 6,000/100,000 | 6 |
| 2 | 4,800/80,000 | 6 |
| 3 | 3,600/60,000 | 6 |
| 4 | 1,200/40,000 | 3 |
| 5 | 900/30,000 | 3 |
| 6 | 600/20,000 | 3 |
| 7 | 600/20,000 | 3 |
| 8 | 300/10,000 | 3 |
| 9 | 150/5,000 | 3 |

(iii) The actual deferral percentage for the top ⅓ (1, 2, 3) is 6% and the actual deferral percentage for the lower ⅔ (4 thru 9) is 3%. Because 6% is greater than 4.5% (3% multiplied by 1.5), the first percentage test is not satisfied. However, because 6% is not more than 3 percentage points greater than 3% and 6% is less than 7.5% (3% x 2.5), the second percentage test is satisfied.

*Example 3.* Employer B has a qualified profit-sharing plan which includes a qualified cash or deferred arrangement. The qualified cash or deferred arrangement in operation produces an actual deferral percentage for the top ⅓ of 5%. The actual deferral percentage for the lower ⅔ is 2%. This arrangement does not satisfy the first percentage test because 5% is greater than 3% (2% multiplied by 1.5). However, this arrangement does satisfy the second percentage test because the actual deferral percentage for the top ⅓ is not more than 3 percentage points in excess of the actual deferral percentage for the lower ⅔ (5%–2%) and 5% is not greater than 5% (2% multiplied by 2.5).

*Example 4.* Employer C has a stock bonus plan which includes a qualified cash or deferred arrangement. The cash or deferred arrangement in operation produces an actual deferral percentage for the top ⅓ of 12%. The actual deferral percentage for the lower ⅔ is 8%. This arrangement does not satisfy the second percentage test because 12% is more than three percentage points above 8%. However, this arrangement does satisfy the first percentage test because 12% for the top ⅓ is not greater than 12% (8% for the lower ⅔ multiplied by 1.5).

*Example 5.* (i) Employees 1 thru 9 are the only employees of Employer D. Employer D maintains and contributes to a profit-sharing plan the following amounts:

(A) Six percent of each employee's compensation, where such amounts do not satisfy paragraphs (c) and (d).

(B) Two percent of each employee's compensation, where such amounts do satisfy paragraphs (c) and (d), and

(C) Up to three percent of each employee's compensation which the employee may elect to receive as a direct cash payment or to have that amount contributed to the plan.

(ii) For a plan year, employees 1 thru 9 received compensation and deferred contributions as indicated in the table below:

| Employee | Compensation | 6 percent non-elective contribution | 2 percent non-elective contribution | Elective contribution elected to be deferred |
|---|---|---|---|---|
| 1 | $100,000 | $6,000 | $2,000 | $3,000 |
| 2 | 80,000 | 4,800 | 1,600 | 2,400 |
| 3 | 60,000 | 3,600 | 1,200 | 1,800 |
| 4 | 40,000 | 2,400 | 800 | 0 |
| 5 | 30,000 | 1,800 | 600 | 0 |
| 6 | 20,000 | 1,200 | 400 | 0 |
| 7 | 20,000 | 1,200 | 400 | 0 |
| 8 | 10,000 | 600 | 200 | 0 |
| 9 | 5,000 | 300 | 100 | 0 |

(iii) In this case, the eligible employees are all the employees of Employer D, and the eight percent non-elective contributions are made for every eligible employee. Thus, the non-elective portion of the plan satisfies the general rules in subparagraph (3).

(iv) However, the elective portion of the plan does not satisfy the special rules in subparagraph (4) because the actual deferral percentage for the top ⅓ is 3 percent and the actual deferral percentage for the lower ⅔ is zero. Nevertheless, as allowed by subparagraph (2) (iii) the 2 percent non-elective contributions may also be taken into account in applying the special rules because such contributions satisfy paragraphs (c) and (d).

(v) If these contributions are considered the actual deferral percentage for the top ⅓ is 5 percent and the actual deferral percentage for the lower ⅔ is 2 percent. Because 5 percent is not more than 3 percentage points greater than 2 percent and not more than 2 percent multiplied by 2.5, the alternative actual deferral percentage test in subparagraph (5) is satisfied. Thus, this plan satisfies paragraph (b).

(c) *Nonforfeitability*—(1) *General rule.* A cash or deferred arrangement is not qualified unless the employee's rights to the accrued benefit derived from elective contributions made on or after the effective date of this section and non-elective contributions considered under paragraph (b)(2)(iv) of this section—

(i) Are nonforfeitable within the meaning of section 411, without regard to section 411(a)(3),

(ii) Are disregarded, for purposes of applying section 411 (a) to other contributions, and

(iii) Remain nonforfeitable, even if there are other plan years in which there were no qualified deferrals under a cash or deferred arrangement.

(2) *Example.* This paragraph may be illustrated by the following example:

*Example.* Employee A is covered by X Company's qualified stock bonus plan and trust. The plan includes a qualified cash or deferred arrangement. Under the plan, an employer contribution equal to 3% of A's compensation is automatically contributed. A further amount equal to 2% of A's compensation is subject to A's election under the qualified cash or deferred arrangement. Those amounts up to 2% which A elects to have contributed by X Company to the trust under the qualified cash or deferred arrangement, adjusted pursuant to paragraph (e)(2), must be nonforfeitable at all times. The employer contribution of 3% of compensation, not subject to the election under the arrangement, is treated as an employer contribution for purposes of applying the vesting rules of section 411. Furthermore, in accordance with paragraph (c)(1)(ii), for purposes of applying the vesting requirements of section 411(a) to these non-elective contributions, an employee's right to the accrued benefit attributable to the contributions under the qualified cash or deferred arrangement must be disregarded.

(d) *Distribution limitation*—(1) *General rule.* A cash or deferred arrangement is not qualified unless amounts attributable to elective contributions made on or after the effective date of this section or non-elective contributions considered under paragraph (b)(2)(iv) of this section are not distributable earlier than upon one of the following events:

(i) The participant's retirement, death, disability, separation from service, or attainment of age 59½; or

(ii) The participant's hardship.

(2) *Definitions.* For purposes of this section, a distribution will be on account of hardship if the distribution is necessary in light of immediate and heavy financial needs of the employee. A distribution based upon financial hardship cannot exceed the amount required to meet the immediate financial need created by the hardship and not reasonably available from other resources of the employee. The determination of the existence of financial hardship and the amount required to be distributed to meet the need created by the hardship must be made in accordance with uniform and non-discriminatory standards set forth in the plan.

(3) *Impermissible distributions.* Elective contributions and non-elective contributions under paragraph (b)(2)(iv) of this section cannot be distributed merely by reason of completion of a state period of plan participation or by the lapse of a fixed period of time.

(e) *Other rules*—(1) *General rule.* All amounts held under a plan that has qualified cash or deferred arrangement (including amounts contributed for plan years beginning prior to January 1, 1980, contributions made other than on account of a deferral election, and contributions made for years when the cash or deferred arrangement is qualified) will be deemed to be attributable to contributions made pursuant to the employee's deferral election and therefore subject to the requirements of paragraphs (c) and (d) unless the requirements of paragraph (e)(2) of this section are satisfied.

(2) *Separate accounting.* The portion of an employee's accrued benefit that is subject to the requirements of paragraph (c) and (d) of this section determined by an acceptable separate accounting between such portion and any other benefits, by allocating investment gains and losses on a reasonable pro rata basis, and by adjusting account balances for withdrawals and contributions. The separate accounting is not acceptable unless gains, losses, withdrawals, forfeitures and other credits or charges are separately allocated to the accrued benefits subject to paragraphs (c) and (d) of this section and other benefits on a reasonable and consistent basis. A plan may allow for the designation of accounts when making withdrawals or the plan must specify from which accounts withdrawals will be made if there is no designation.

(f) *Effective date*—(1) *In general.* This section shall apply to plan years beginning after December 31, 1979.

(2) *Transitional rule.* In the case of cash or deferred arrangements in existence on June 27, 1974, see § 1.402(a)–1(d)(3) for transitional rule applicable to such arrangements.

Par. 2. Section 1.402(a)–1 is amended by adding a new paragraph (d) to read as follows:

**§ 1.402(a)–1 Taxability of beneficiary under a trust which meets the requirements of section 401(a).**

* * * * *

(d) *Salary reduction, cash or deferred arrangements*—(1) *Inclusion in income.* Whether a contribution to an exempt trust or plan described in section 401(a), 403(a), or 405(a) is made by the employer or the employee must be determined on the basis of the particular facts and circumstances of each individual case. An amount contributed to a plan or trust will, except as otherwise provided under paragraph (d)(2) of this section, be treated as contributed by the employee if such amount was so contributed at the employee's individual option. Any amount treated as contributed by the employee is currently included in the gross income of the employee. Thus, for example, if amounts are contributed to an exempt trust or plan by reason of a salary reduction agreement or cash or deferred arrangement, such amounts are includible in the gross income of the employee (except as provided under paragraph (d)(2) of this section).

(2) *Qualified cash or deferred arrangement.* Contributions for a plan year made by an employer on behalf of an employee to a trust under a qualified cash or deferred arrangement, as defined in section 401(k)(2), shall not be treated as distributed or made available to the employee, nor as employee contributions, merely because the employee has the election under the arrangement whether the contribution will be made to the trust or received by the employee in cash. Contributions made under a qualified cash or deferred arrangement may be made pursuant to a salary reduction agreement (see § 1.401(k)–1).

(3) *Effective date and transitional rule.* (i) In the case of a plan or trust that does not include a salary reduction or a cash or deferred arrangement in existence on June 27, 1974, this paragraph applies to taxable years ending after such date.

(ii) In the case of a plan or trust that includes a salary reduction or a cash or deferred arrangement in existence on June 27, 1974, this paragraph applies to plan years beginning after December 31, 1979. For such plans and trusts and for plan years beginning prior to January 1, 1980, the taxable year of inclusion in gross income of the employee of any amount so contributed by the employer to the trust shall be determined in a manner consistent with Revenue Ruling 56–497 (1956–2 C.B. 284), Revenue Ruling 63–180 (1963–2 C.B. 189), and Revenue Ruling 68–89 (1968–1 C.B. 402).

(iii) A cash or deferred arrangement shall be considered as in existence on June 27, 1974, if, on or before such date, it was reduced to writing and adopted by the employer (including, in the case of a corporate employer, formal approval by the employer's board of directors and, if required, shareholders), even though no amounts had been contributed pursuant to the terms of the arrangement as of such date.

**Roscoe L. Egger, Jr.,**

*Commissioner of Internal Revenue.*

[FR Doc. 81–32545 Filed 11–9–81; 8:45 am]

BILLING CODE 4830–01–M

## Bureau of Alcohol, Tobacco and Firearms

## 27 CFR Parts 4, 5, and 7

**[Notice No. 394; Re: Notice No. 362]**

## Alcohol Labeling and Advertising Regulations; Hearing

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

**ACTION:** Notice of hearing.

**SUMMARY:** This notice announces the time and location the Bureau of Alcohol, Tobacco and Firearms (ATF) will hold a public hearing in California to gather testimony on issues relating to the proposed labeling and advertising regulation changes published in the **Federal Register** on December 19, 1980 (Notice No. 362, 45 FR 83530).

**DATES:** *Hearing dates:* December 10 and 11, 1981, at 9:00 a.m. until 4:30 p.m.—open to the public.

*Requests to Testify:* Requests to testify must be received on or before December 10, 1981.

**ADDRESSES:** *Hearing location:* Holiday Inn Civic Center, 50 Eighth Street (½ block south of Market), San Francisco, California 94106.

*Requests to testify:* Requests to testify must be submitted to Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385 (Notice No. 394).

**FOR FURTHER INFORMATION CONTACT:** Roger L. Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC (202–566–7626).

**SUPPLEMENTARY INFORMATION:**

### Request to Testify; Rules Governing Public Hearings

Persons requesting to testify shall indicate a preference for the date and time they wish to testify. To the extent possible, ATF will honor these preferences. Requests to testify must contain the name of the person who will testify, the company/organization represented, if any, and address and telephone number where such person can be contacted. The request must also include an outline of the topic or topics on which the testimony will be based. Testimony will be limited to ten minutes per speaker, however, additional time may be granted for answering questions. Persons testifying should be prepared to respond to questions regarding their testimony, or to any matters relating to written comments which they may have

submitted. Persons not scheduled to testify may be allowed to do so at the conclusion of each hearing, if time permits.

ATF will notify all persons requesting to testify and will confirm the date and time. ATF will prepare an agenda listing all speakers for each hearing, and will make this agenda available at the hearing.

All public hearings held pursuant to this notice are open to the public and will be conducted under the procedural rules contained in 27 CFR 71.41(a)(3).

### Notice of Proposed Rulemaking and Public Hearing

On December 19, 1980, ATF published Notice No. 362 to obtain comment on proposed regulatory changes regarding the labeling and advertising regulations for wine, distilled spirits, and malt beverages. A total of 396 individual comments were received on this notice. Although most commenters supported the Bureau's intent and purpose of the proposed changes, many commenters submitted substantial suggestions and possible modifications to the proposed regulatory language. Furthermore, a number of commenters suggested that public hearings be held to provide a full discussion of these issues.

ATF believes that hearings are essential in order that all possible information concerning the regulatory proposals be obtained and evaluated.

Therefore, ATF held hearings in Washington, DC, on September 9 and 10, 1981. In Notice No. 375 (46 FR 37282, July 20, 1981), ATF stated that depending upon requests and availability of funds, other hearings may be held. ATF received two requests to hold hearings on the West Coast. Since a large number of wine industry members are concentrated in this area, ATF believes these persons and other interested persons should be given an opportunity to present oral testimony. This will also ensure that all pertinent information is made available to ATF before any final decisions are reached.

ATF specifically requests testimony concerning the following issues:

(a) The proposed standards for the use of the word "light" or other phonetically similar words;

(b) The proposed definition of "natural";

(c) The use of athletes and athletic events;

(d) The guidelines proposed under which taste tests may be conducted for comparative advertising;

(e) The use of curative or therapeutic claims such as, relax and refresh;

(f) The proposed definitions for "false" and "disparaging"; and

(g) The use and definition of subliminal and similar techniques.

Although ATF specifically requests testimony on these issues, this is not to preclude anyone from testifying on any subject concerning the proposed regulations.

### Disclosure of Comments

Copies of the notice of proposed rulemaking, all written comments, and the hearing transcripts will be available for public inspection at: ATF Reading Room, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC.

### Drafting Information

The principal author of this document is Roger L. Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel in the Bureau participated in the preparation of this document, both in matters of substance and style.

### Authority and Issuance

This notice of hearing is issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended; 27 U.S.C. 205.

Signed: October 27, 1981.

**G. R. Dickerson,**

*Director.*

Approved: November 3, 1981.

**John P. Simpson,**

*Acting Assistant Secretary, Enforcement and Operations.*

[FR Doc. 81-32544 Filed 11-9-81; 8:45 am]

BILLING CODE 4810-31-M

## SELECTIVE SERVICE SYSTEM

## 32 CFR Ch. XVI

### Improving Government Regulations; Semiannual Agenda

**AGENCY:** Selective Service System.

**ACTION:** Publication of semiannual agenda.

**SUMMARY:** The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. App. 451 et seq.). This information will allow the public to participate in the System's decisionmaking at an early stage.

**FOR FURTHER INFORMATION CONTACT:** Edward A. Frankle, Associate Director, Policy Development Directorate, Selective Service System, Washington, D.C. 20435, Telephone (202) 724-0844.

**SUPPLEMENTARY INFORMATION:** This agenda is published in accord with the requirements of E.O. 12291. Selective Service Regulations appear in 32 CFR Chapter XVI.

### Subjects of Proposed Rulemaking

Considerations will be given to a comprehensive revision of Selective Service Regulations that deal with the processing of registrants under the Military Selective Service Act (50 U.S.C. App. 451 et seq.). Regulations for the administration by the System of the Freedom of Information Act [5 U.S.C. 552] and the Privacy Act of 1974 (5 U.S.C. 552a) may also be revised.

**Thomas K. Turnage,**

*Director of Selective Service.*

November 4, 1981.

[FR Doc. 81-32558 Filed 11-9-81; 8:45 am]

BILLING CODE 8015-01-M

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[A-4-FRL-1959-2]**

### Approval and Promulgation of Implementation Plans; Georgia and South Carolina: Prevention of Significant Deterioration Regulations

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** On August 7, 1980 (45 FR 52676), EPA promulgated revised regulations for Prevention of Significant Air Quality Deterioration (PSD) and requirements for States to develop and submit revised regulations for PSD. The States of Georgia and South Carolina have responded and on December 18, 1980, and April 14, 1981, respectively, submitted to EPA revised regulations meeting EPA's requirements. EPA is today proposing to approve the PSD revisions submitted by Georgia and South Carolina.

**DATES:** To be considered, comments must be submitted on or before December 10, 1981.

**ADDRESSES:** Written comments should be addressed to Archie Lee of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by Georgia and South Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365

Materials submitted by Georgia may also be examined at: Georgia Department of Natural Resources, Environmental Protection Division, 270 Washington Street, S.W., Atlanta, Georgia 30334

Materials submitted by South Carolina may also be examined at: South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201

**FOR FURTHER INFORMATION CONTACT:** Archie Lee, EPA Region IV, Air Programs Branch, at the above listed address and phone 404/881-3286 or FTS 257-3286.

**SUPPLEMENTARY INFORMATION:** On December 5, 1974, EPA published regulations for PSD under the 1970 version of the Clean Air Act. These regulations established a program for protecting areas with air quality cleaner than the national ambient air quality standards (NAAQS). The Clean Air Act Amendments of 1977 changed the 1970 act and EPA's regulations in many respects, particularly with regard to PSD. In addition to mandating certain immediately effective changes to EPA's PSD regulations, the new Clean Air Act, in sections 160-169, contains comprehensive new PSD requirements. These new requirements are to be incorporated by States into their implementation plans.

On June 19, 1978 (43 FR 26380), EPA promulgated further guidance. On August 7, 1980 (45 FR 52676), EPA promulgated the latest guidance to assist States in preparing State implementation plan (SIP) revisions meeting the new requirements.

The State of Georgia has complied with these requirements and has adopted and submitted a revised regulation, Rule 391-3-1-.02 Section (7), "Prevention of Significant Deterioration of Air Quality," which incorporates by reference the following provisions of EPA's PSD regulations at 40 CFR 52.21: Subsections (b)-(e), (h)-(r), (v) and (w). In its submittal, the State noted that the phrase "Director of EPD" should be substituted for "Administrator" in each instance where the latter word appeared in the federal PSD regulations adopted by reference. Subsequently, in a May 12, 1981, letter to EPA, the State clarified its intent that his substitution was not intended to apply to the PSD provisions at 40 CFR 52.21 (b)(17), (l) and (p), since the sustitutjon in those provisons would be inappropriate. In addition, with respect to 40 CFR 52.21(g), the State clarified its intent to follow the public participation provisions of 40 CFR 52.21(r) as in effect on June 19, 1978. Accordingly, the State has substantially complied with EPA's SIP guidance on PSD regulations. In addition, the State has full delegation of authority under these same regulations to carry out the PSD program in Georgia.

The State of South Carolina has also complied with these requirements and has adopted and submitted a revised regulation, Regulation 62.5, Standard No. 7, "Prevention of Significant Deterioration". EPA's review and analysis has shown that this equivalent to EPA's PSD regulations. In addition, the State has full delegation of authority under these same regulations to carry out the PSD program in South Carolina.

Action:

EPA has reviewed the submitted materials and found them to be equivalent to present EPA requirements. Therefore, EPA is today proposing to approve the Georgia and South Carolina submittals as satisfying the requirements of an acceptable plan for implementing PSD and is soliciting public comment on the regulation.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified (46 FR 8709) that the proposed rules will not if promulgated have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. These regulations are not major because they impose no new burden on sources.

These regulations were submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

(Section 110 and 161 of the Clean Air Act (42 U.S.C. 7410 and 7471))

Dated: August 20, 1981.

John A. Little,

*Acting Regional Administrator.*

[FR Doc. 81-32515 Filed 11-6-81; 8:45 am]

BILLING CODE 6560-38-M

---

**40 CFR Part 52**

**[AD, FRL-1982-5]**

## Interstate Pollution Abatement; Announcement of Receipt of Petition From the State of Maine

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of receipt of petition under section 126 of the Clean Air Act.

**SUMMARY:** This notice announces EPA's receipt of a petition from the State of Maine under section 126 of the Clean Air Act. This petition requests consolidation with and names the same sources as the section 126 petitions filed by New York and Pennsylvania on December 19 and December 22, 1980, and January 16, 1981. See 46 FR 24602 (May 1, 1981). Maine's petition will be consolidated with these petitions and placed in the docket for the New York and Pennsylvania petitions (Docket A-81-09). Since Maine has waived a separate section 126 hearing on its petiton in order not to delay the New York and Pennsylvania proceedings, a public hearing on the Maine petition will not be held.

**DATE:** The public comment period on the material submitted by Maine will extend until January 4, 1982 to allow time for public review and comment.

**ADDRESSES:** The section 126 material submitted by Maine will be contained in the docket for New York and Pennsylvania section 126 petitions. This docket is numbered A-81-09 and is available at the EPA Central Docket Section (A-130), U.S. Environmental Protection Agency, Room 2902, 401 M Street, SW., Washington, D.C. 20460. Telephone number 202-755-0245. Comments should be submitted to this address.

**FOR FURTHER INFORMATION CONTACT:** William F. Hamilton, Control Programs Development Division (MD-15), Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, Telephone number 919-541-5551 or FTS 629-5551.

**SUPPLEMENTARY INFORMATION:** Section 126(b) of the Clean Air Act authorizes any State or political subdivision to "petition the Administrator [of the EPA] for a finding that any major source emits or would emit any air pollutant in violation of the prohibition of section 110(a)(2)(E)(i)" of the Clean Air Act. That section prohibits "any stationary source within a State from emitting any air pollutant in amounts which will (I) prevent attainment or maintenance by any other State of any national primary or secondary ambient air quality standard, or (II) interfere with measures required to be included in the applicable implementation plan for any other State under Part C [of the Act] to prevent significant deterioration of air quality or to protect visibility."

On December 22, 1980 and January 16, 1981, the State of New York, and on December 19, 1980, the State of Pennsylvania petitioned EPA, pursuant to section 126 (b) and (c) of the Clean

Air Act as amended in 1977 (42 U.S.C. 7401 et seq.) to make a finding that emissions from certain sources were causing or contributing to high concentrations of total suspended particulates and sulfur dioxide in these States and were otherwise in violation of Section 110(a)(2)(E)(i).

As announced in the Federal Register of May 1, 1981 (46 FR 24602), a public hearing on the New York and Pennsylvania petitions was held June 18–19, 1981 in Washington, D.C. Subsequent to this hearing, the public comment period on the New York and Pennsylvania petitions was extended to January 4, 1982 in order to allow sufficient time for public review and comment on the proceedings (see 46 FR 45383).

On October 7, 1981, the State of Maine submitted to EPA a petition under section 126 of the Clean Air Act. The Maine petition was filed against the same sources named in the New York and Pennsylvania petitions. These sources were described in 46 FR 24602 and 46 FR 45383 and include sources in the States of Ohio, West Virginia, Illinois, Indiana, Kentucky, Michigan, and Tennessee. The Maine petition requests consolidation with the petitions previously filed by New York and Pennsylvania. Therefore, the material submitted to EPA by Maine will be included in Docket A–81–09 which EPA has established for these proceedings. In addition, in order not to delay the New York and Pennsylvania actions, Maine has waived their right to a public hearing. Therefore, a public hearing on the Maine petition will not be held and the public comment period on the Maine submission will close on January 4, 1982, the date previously established for the close of the comment period on the New York and Pennsylvania petitions.

Dated: November 3, 1981.

**Kathleen M. Bennett,**

*Assistant Administrator for Air, Noise, and Radiation.*

[FR Doc. 81–32531 Filed 11–9–81; 8:45 am]

BILLING CODE 6560–26–M

# Notices

Federal Register
Vol. 46, No. 217
Tuesday, November 10, 1981

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

### Animal and Plant Health Inspection Service

### Brucellosis Eradication Uniform Methods and Rules

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Animal and Plant Health Inspection Service (APHIS) is considering amending the Brucellosis Eradication Uniform Methods and Rules, 1981 ed., (UM&R), which set forth the basis upon which APHIS cooperates with States in the control and eradication of brucellosis. The amendments under consideration are being widely circulated to livestock organizations, livestock producers, livestock marketing interests, State regulatory officials, and other interested persons for their comments. APHIS wants constructive comments from as many persons and organizations as possible before drafting the amendments to the Uniform Methods and Rules. Members of the public are invited to comment on the amendments under consideration and any other aspect of the UM&R they feel should be amended.

**DATE:** Comments must be received on or before December 8, 1981.

**ADDRESS:** Comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 805, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301–436–5961.

**FOR FURTHER INFORMATION CONTACT:**

For further information and a copy of The Amendments to be Uniform Methods and Rules Under Consideration, Contact: Dr. A. D. Robb, USDA, APHIS, VS, Federal Building, Room 805, Hyattsville, Maryland 20782, 301–436–5961.

Done at Washington, D.C., this 3rd day of November, 1981.

J. K. Atwell,

*Deputy Administrator, Veterinary Services.*

[FR Doc. 81–32331 Filed 11–9–81; 8:45 am]

BILLING CODE 3410–34–M

## Cooperative State Research Service

### Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Cooperative State Research Service, announces the following meeting:

Name: Committee of Nine.
Date: December 2, 1981.
Time: 8:00 a.m.
Conference Room, Breckenridge King's Inn, 9600 Natural Bridge Road, St. Louis, Missouri 63134.
Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person listed below.
Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.
Contact person for agenda and more information: Dr. Estel H. Cobb, Recording Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Washington, D.C. 20250, telephone: 202/447–4329.

Done at Washington, D.C., this 4th day of November 1981.

W. I. Thomas,

*Acting Administrator, Cooperative State Research Service.*

[FR Doc. 81–32546 Filed 11–9–81; 8:45 am]

BILLING CODE 3410–03–M

## Forest Service

### Alpine Lakes Area Land Management Plan; Mt. Baker-Snoqualmie and Wenatchee National Forests; Chelan, King, Kittitas, and Snohomish Counties, Washington; Availability of Final Environmental Impact Statement and Record of Decision

As directed by the Alpine Lakes Area Management Act of 1976 (Pub. L. 94–357 July 12, 1976), the Department of agriculture, Forest Service, has prepared a plan for management of the Alpine Lakes Area which includes a management unit and the designated Wilderness.

The Final Environmental Impact Statement (FEIS) presents five alternatives for managing the 393,360-acre Wilderness and Intended Wilderness, and the 547,155-acre management unit. They offer different combinations of activities and constraints on uses. The estimated short and long-term effects of implementing each alternative are identified and evaluated. From among the five alternatives, Alternative E was selected as the preferred plan of management in the FEIS. Alternative E provides for a diversity of management approaches and a balance between goods and services available within the area. It is sensitive to a wide range of environmental needs and provides for a fairly stable social and economic environment to local communities. It also provides for an estimated long-term timber yield of about 67.6 million board feet per year, 5.9 million recreation visitor days per year in the management unit along with about one-half million recreation visitor days in the Wilderness. The plan ultimately provides for an additional 360 miles of road and an additional 21 miles of trail.

Public comment and involvement contributed significantly in shaping the five alternatives during the planning process. Public comment on the Apline Lakes Area Draft Environmental Impact Statement and the resulting changes made in the preferred alternative are summarized in the Final Environmental Impact Statement.

In accordance with the Alpine Lakes Act, the plan is being transmitted to the President and to the United State House of Representatives and to the Senate. The plan will take effect and will be implemented no earlier than 90 calendar days from the date of such transmittal.

As indicated in my Record of Decision, dated November 2, 1981, Alternative E is the plan for management of the Alpine Lakes Area. My decision is subject to administrative review pursuant to 36 CFR 211.19. A

notice of appeal must be filed with the Regional Forester, USDA Forest Service, P.O. Box 3623, Portland, OR 97208 within 45 calendar days of the date on the Record of Decision.

Copies of the Final Environmental Impact Statement and Record of Decision may be obtained from U.S. Forest Service, 1022 First Avenue, Seattle, WA 98104, phone (206) 442–5400.

Dated: November 2, 1981.

**Claude R. Elton,**

*Acting Regional Forester.*

[FR Doc. 81–32468 Filed 11–9–81; 8:45 am]

BILLING CODE 3410–11–M

## Rural Electrification Administration

### Minnkota Power Cooperative, Inc.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) in connection with the proposed financing assistance to Minnkota Power Cooperative, Inc., (Minnkota) of Grand Forks, North Dakota.

The proposed project consists of the construction of 69 kV transmission lines from Enderlin through Sheldon to Leonard, and from Sheldon to Anselm where a substation will be constructed. In addition, it is proposed to expand the Prairie Substation. The alternatives that were considered for this project were no action, alternative routes, the use of underground conductors, and the selected alternative described above.

A Borrower's Environmental Report (BER) was prepared by Minnkota on the proposed project, and REA prepared an Environmental Assessment (EA) on the proposed project.

After an independent evaluation of the BER, the EA and information from other sources, REA has concluded the proposed project will not have a significant impact on the quality of the human environment and has arrived at a FONSI. The FONSI, EA and BER may be reviewed in the office of the Director, Power Supply Division, Rural Electrification Administration, Room 0230, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382–1400 or at the office of the cooperative, Minnkota Power Coopertive, Inc., Grand Forks, North Dakota 58201, telephone (701) 795–4000.

This Program is listed in the catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 3rd day of November 1981.

**Harold V. Hunter,**

*Administrator, Rural Electrification Administration.*

[FR Doc. 81–32493 Filed 11–9–81; 8:45 am]

BILLING CODE 3410–15–M

## COMMISSION ON CIVIL RIGHTS

### Delaware Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission will covene at 4:00 p.m. and will end at 6:00 p.m. on December 9, 1981, at the United States Custom House, 944 King Street, Room 3209, Wilmington, Delaware 19801. The purpose of this meeting is to discuss the information gathered from officials and organizations on State administration of the Federal Block Grant funding program.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Louise T. Conner, 1214 Faun Road, Graylyn Crest, Wilmington, Delaware 19803, (302) 478–3995 or the Mid-Atlantic Regional Office, 2120 L Street, N.W., Room 510, Washington, D.C. 20037, (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., on November 5, 1981.

**John I. Binkley,**

*Advisory Committee Management Officer.*

[FR Doc. 81–32500 Filed 11–9–81; 8:45 am]

BILLING CODE 6335–01–M

### Maine Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 7:00 p.m. and will end at 9:30 p.m. on December 1, 1981, at the Teachers Association, Civic Center, 35 Community Drive, Augusta, Maine, 04330. The purpose of this meeting is to: (1) Discuss followup on Domestic Violence Project; (2) review draft of "Civil Rights Developments in Maine, 1981"; and (3) identify issues and priorities for 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Madeleine Giguere, 35 Orange Extension, Lewiston, Maine, 04240, (207) 784–9948/780–4100 or contact the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 3, 1981.

**John I. Binkley,**

*Advisory Committee Management Officer.*

[FR Doc. 81–32501 Filed 11–9–81; 8:45 am]

BILLING CODE 6335–01–M

### Montana Advisory Committee; Cancelled Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Montana Advisory Committee of the Commission originally scheduled for November 21, 1981, at Billings, Montana (FR Doc. 81–31571 on page 53736) has been canceled.

**John I. Binkley,**

*Advisory Committee Management Officer.*

[FR Doc. 81–32502 Filed 11–9–81; 8:45 am]

BILLING CODE 6335–01–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Gulf of Mexico Fishery Management Council, its Scientific and Statistical Committee and its Shrimp Resources Subpanel; Public Meetings

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

**SUMMARY:** The Gulf of Mexico Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established a Scientific and Statistical Committee (SSC) and a Shrimp Resources Subpanel (AP). The Council, its SSC and AP will hold separate public meetings. The Council will meet to review status reports on the development of various fishery management plans (FMP's); consider foreign fishing applications, if any, and conduct other fishery management business. Both the SSC and AP will meet to review monitoring information on the provisions of the Shrimp FMP which pertains to seasonal closure of waters off Texas.

**DATES:** The SSC will convene on Monday, December 7, 1981, at approximately 1 p.m., and adjourn at approximately 5 p.m. The AP meeting will convene on Tuesday, December 8,

1981, at approximately 8 a.m., and adjourn at approximately noon. The Council meeting will convene on Wednesday, December 9, 1981, at approximately 8:30 a.m., and adjourn at approximately 5 p.m.; reconvene on Thursday, December 10, 1981, at approximately 8:30 a.m., and adjourn at approximately noon.

**ADDRESS:** The public meeetings will take place at the Ramadas I and II, Ramada Inn, 3719 West Beach Boulevard, Biloxi, Mississippi.

**FOR FURTHER INFORMATION CONTACT:** Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: November 5, 1981.

**Jack L. Falls,**

*Chief, Administrative Support Staff, National Marine Fisheries Service.*

[FR Doc. 81–32552 Filed 11–9–81; 8:45 am]

**BILLING CODE 3510–22–M**

## COMMODITY FUTURES TRADING COMMISSION

### New York Futures Exchange; Proposed Amendment Relating to the Domestic Bank Certificates of Deposit Futures Contract

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of proposed contract market rule change.

**SUMMARY:** The New York Futures Exchange ("NYFE" or "Exchange") has submitted a proposal to amend the domestic bank certificates of deposit futures contract ("CD contract") in order to exclude last leg variable rate certificates of deposit from the standard grade of certificate deliverable on the contract. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of that provision is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

**DATE:** Comments must be received on or before December 1, 1981.

**ADDRESS:** Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Reference should be made to the New York Futures Exchange Rule 1002(a)(4)(ii).

**FOR FURTHER INFORMATION CONTACT:** Ronald Hobson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C., (202) 254–7303; or Lawrence Dolins, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. (202) 254–8955.

**SUPPLEMENTARY INFORMATION:** The New York Futures Exchange is proposing to revise Rule 1002(a)(4) of its CD contract in response to indications that last leg variable rate certificates of deposit may trade at a discount relative to fixed rate certificates. In particular, the Exchange proposes to excise subparagraph (a)(4)(ii) from Rule 1002 in order to exclude last leg variable rate certificates of deposit from the standard grade of certificate deliverable on the contract.

In accordance with section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12) (Supp. III 1979), the Commission has determined that this provision submitted by the NYFE concerning its CD futures contract is of major economic significance. Accordingly, the NYFE's proposed amendment to Rule 1002(a)(4) is printed below, using brackets to indicate deletions:

Standards

*Rule 1002* (a) The standard grade for delivery under the CD Futures contract shall be certificates of deposit ("CDs") that:

(1) are issued by banks listed pursuant to paragraph (b) of this Rule;

(2) have an original issuance date which is no earlier than the first business day for the bank issuing the CD in the delivery half-month three calendar months prior to the first delivery day of the delivery half-month in which such CDs are delivered under the CD Futures Contract;

(3) mature on a day during a delivery half-month which (i) is three calendar months later (ii) is not less than 87 nor more than 95 days after the day such CDs are delivered under the CD Futures Contract and (iii) is a business day for the bank issuing the CDs; and

(4) are standard, negotiable CDs, in bearer form, each of which has a face value at maturity of one million dollars ($1,000,000) and which provide for the payment of interest [(i)] at fixed rate per annum payable at maturity, [or (ii) at a variable rate provided that the interest is payable at a fixed rate per annum during the period from the time the CD is delivered under the CD Futures Contract until the CD matures.]

* * * * *

Other materials submitted by the NYFE in support of the proposed rule amendment may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 154.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, by [twenty-one days after publication]. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on November 4, 1981.

**Jane K. Stuckey,**

*Secretary of the Commission.*

[FR Doc. 81–32467 Filed 11–9–81; 8:45 am]

**BILLING CODE 6351–01–M**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Privacy Act of 1974; Deletion of System Notice

**AGENCY:** Department of the Defense (OSD).

**ACTION:** Deletion of system notice.

**SUMMARY:** The Office of the Secretary of Defense proposed to delete the notice for system of records: DHA 04, "Special Pay for Military Health Professionals—Data Management System" subject to the Privacy Act of 1974. It has been determined that the military personnel are adequately covered by the parent military services.

**DATES:** This deletion shall be effective December 10, 1981.

**ADDRESS:** Send any comments to the System Manager identified in the system notice (44 FR 74088) December 17, 1979.

**FOR FURTHER INFORMATION CONTACT:** Norma Cook, Privacy Act Officer, ODASD(A), Room 5C315, Pentagon, Washington, D.C. 20301. Telephone: (202) 695–0970.

**SUPPLEMENTARY INFORMATION:** The Office of the Secretary of Defense (OSD) systems notices for records systems subject to the Privacy Act of 1974 (5

U.S.C. 552a) Pub. L. 93-579 were published in the Federal Register.

FR Doc. 81-897 (48 FR 6427) January 21, 1981
FR Doc. 81-5568 (48 FR 12772) February 18, 1981
FR Doc. 81-6248 (46 FR 14031) February 25, 1981
FR Doc. 81-6491 (48 FR 14154) February 28, 1981
FR Doc. 81-7597 (46 FR 16114) March 11, 1981
FR Doc. 81-8041 (48 FR 16926) March 18, 1981
FR Doc. 81-8127 (48 FR 17074) March 17, 1981
FR Doc. 81-8281 (48 FR 17243) March 18, 1981
FR Doc. 81-8282 (46 FR 17243) March 18, 1981
FR Doc. 81-10201 (46 FR 20260) April 3, 1981
FR Doc. 81-10722 (48 FR 21228) April 9, 1981
FR Doc. 81-11473 (48 FR 22257) April 18, 1981
FR Doc. 81-11785 (46 FR 22832) April 20, 1981
FR Doc. 81-12892 (48 FR 23967) April 29, 1981
FR Doc. 81-13225 (46 FR 24820) May 1, 1981
FR Doc. 81-14226 (48 FR 28365) May 12, 1981
FR Doc. 81-14406 (48 FR 26676) May 14, 1981
FR Doc. 81-14909 (48 FR 27373) May 19, 1981
FR Doc. 81-14975 (48 FR 27373) May 19, 1981
FR Doc. 81-15770 (48 FR 28470) May 27, 1981
FR Doc. 81-17783 (48 FR 31306) June 15, 1981
FR Doc. 81-19042 (46 FR 33074) June 28, 1981
FR Doc. 81-20404 (48 FR 35963) July 13, 1981
FR Doc. 81-21228 (48 FR 37308) July 20, 1981
FR Doc. 81-21498 (48 FR 37751) July 22, 1981
FR Doc. 81-23482 (48 FR 40788) August 12, 1981
FR Doc. 81-25853 (48 FR 44494) September 4, 1981
FR Doc. 81-28992 (46 FR 49177) October 6, 1981

M. S. Healy,

*OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.*

November 5, 1981.

**Deletion**

*DHA 04*

*System name:* Special Pay for Military Health Professionals—Data Management System.

*Reason:* The military personnel are adequately covered by parent services.

[FR Doc. 81-32565 Filed 11-9-81; 8:45 am]

BILLING CODE 3810-01-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

### Mobil Oil Corp.; Proposed Remedial Order and Opportunity, For Objection

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Proposed Remedial Order to Mobil Oil Corporation and opportunity for objection.

**I. Introduction**

Pursuant to 10 CFR 205.192, the Office of Special Counsel of the Economic Regulatory Administration (ERA), Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order issued to Mobil Oil Corporation, Fairfax, Virginia. In accordance with that section, a copy of the Proposed Remedial Order with confidential information, if any, deleted, may be obtained from the ERA.

**II. The Proposed Remedial Order**

Mobil is a refiner engaged in the production of crude oil, in refining, and in the marketing of petroleum products. Mobil was therefore subject to the Mandatory Petroleum Price and Allocation Regulations which were in effect until January 28, 1981.

These regulations generally permitted refiners to increase the price of covered petroleum products only by the amount which is necessary to recoup permissible increased costs on a dollar-for-dollar basis. Moreover, refiners were required to report their calculations of increased costs on a monthly basis.

The Office of Special Counsel (OSC) of the Department of Energy conducted an examination which focused on Mobil's support of its increased purchased product costs available for passthrough in prices charged for covered products during the period August 1973 through December 1976. As a result of this examination, OSC determined that Mobil failed to adequately support certain reported purchased product costs and that this failure in turn resulted in an overstatement of the increased purchased product costs available for passthrough in the prices charged for covered petroleum products in violation of 10 CFR 212.83(c)(2). OSC further determined that as a result of its overstatement of the increased purchased product costs available for recovery, Mobil potentially miscalculated the maximum allowable prices which it could lawfully charge for covered petroleum products and, therefore, may have overcharged its customers.

In view of the findings, OSC proposes that Mobil be required to reduce certain previously claimed increased product costs by $15,654,636 for the period August 1973 through December 1976, and provide such additional remedial relief as may be found to be appropriate.

**III. Notice of Objection**

In accordance with 10 CFR 205.193, any aggrieved person may file a Notice of Objection to the Proposed Remedial Order with the Office of Hearings and Appeals on or before November 25, 1981. A person who fails to file a Notice of Objection shall be determined to have admitted the findings of fact and conclusions of law as stated in the Proposed Remedial Order. If a Notice of Objection is not filed as provided by § 205.193, the Proposed Remedial Order may be issued as a final order.

All Notices, Statements, Motions, Responses, and other documents required to be filed with the National Office of Hearings and Appeals should be sent to: Department of Energy, Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461.

No confidential information shall be included in a Notice of Objection.

Requests for copies of the Proposed Remedial Order with confidential information deleted should be directed to: Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Room 1E-190, Washington, D.C. 20585.

Issued in Washington, D.C. October 21, 1981.

Bethel Larey,

*Acting Special Counsel.*

[FR Doc. 81-32529 Filed 11-9-81; 8:45 am]

BILLING CODE 6450-01-M

### Shell Oil Co.; Proposed Remedial Order and Opportunity for Objection

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Proposed Remedial Order to Shell Oil Company and Opportunity for Objection.

**I. Introduction**

Pursuant to 10 CFR 205.192, the Office of Special Counsel (OSC), of the Economic Regulatory Administration (ERA), Department of Energy (DOE) hereby gives notice that a Proposed Remedial Order (PRO) was issued on October 28, 1981 to Shell Oil Company (Shell), One Shell Plaza, Post Office Box 2463, Houston, Texas 77001, and that any aggrieved person may file a Notice of Objection to the Proposed Remedial Order in accordance with 10 CFR 205.193 on or before November 25, 1981.

**II. The Proposed Remedial Order**

Shell is a refiner engaged in the production of crude oil, in refining, and in the marketing of petroleum products subject to the DOE regulations. By this PRO, OSC sets forth proposed findings of fact and conclusions of law concerning Shell's computation and reporting of its month of measurement crude oil costs under the refiner price rules in 6 CFR Part 150 and 10 CFR Part 212, Subpart E, between August 1973 and December 1976. Shell is also charged with overstating its crude oil costs by assigning a cost to fee-free import licenses during the period September 1973 through April 1979, in

violation of 6 CFR 150.355 and 10 CFR 212.83 and 212.126(b). OSC's recalculations of Shell's crude oil costs for these periods alleges overstatements of costs totalling $11,658,047.

Specifically, 6 CFR 150.356 and 10 CFR 212.83 required a refiner to calculate its crude oil cost increases using the cost of crude oil purchased or landed by the refiner in the month of measurement, whether or not all of the crude purchased or landed was taken into a refinery during that month. Shell improperly calculated its month of measurement crude oil costs by treating all imported crude oil landed in the month of measurement as a refinery intake, whether or not that crude oil actually reached the refinery in that month. Any excess of refinery intakes over imported volumes was deemed by Shell to be domestic crude oil with a cost calculated by dividing the total volume of currently acquired domestic crude oil into the total cost of the same domestic crude oil to arrive at an average acquisition cost. This average acquisition cost was then multiplied by the volume of refinery intakes deemed to have been domestic crude oil in the month of measurement and used to compute Shell's increased cost of crude oil. Shell also inflated its costs of crude oil by assigning a value to fee-free import licenses obtained by its chemical division and transferred to it. Since no costs were actually incurred to obtain these licenses, the "phantom" values assigned by Shell upon the intra-company transfer are not allowable as part of the landed cost of imported crude oil.

As a remedy, Shell is directed to recompute its domestic crude oil costs based on actual purchases in each month of measurement; and to exclude from the imported crude oil costs the value of fee-free import licenses.

Requests for copies of the Proposed Remedial Order, with confidential information deleted, should be directed to: Freedom of Information, Reading Room, Forrestal Building, Room 1E–190, 1000 Independence Avenue, S.W., Washington, D.C. 20850.

### III. Notice of Objection

In accordance with 10 CFR 205.193, any aggrieved person may file a Notice of Objection to the Proposed Remedial Order with the Office of Hearings and Appeals on or before November 25, 1981. A person who fails to file a Notice of Objection shall be determined to have admitted the findings of fact and conclusions of law as stated in the Proposed Remedial Order. If a Notice of Objection is not filed as provided by § 205.193, the Proposed Remedial Order may be issued as a final order.

All Notices, Statements, Motions, Responses, and other documents required to be filed with the National Office of Hearings and Appeals should be sent to: Office of Hearings and Appeals, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20461.

The Notice must be filed in duplicate. In addition, a copy of the Notice must, on the same day as filed, be served on Shell and on each of the following persons, pursuant to 10 CFR 205.193(c):

Deputy Chief Counsel, Southwest Refiner District, Office of Special Counsel, Department of Energy, One Allen Center, Suite 660, 500 Dallas Street, Houston, Texas 77002;

Gloria R. Sulton, Associate Solicitor, Office of Special Counsel, Department of Energy, Federal Building, Room 4111, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

No data or information which is confidential shall be included in any Notice of Objection.

Issued in Washington, D.C. October 30, 1981.

**Bethel Larey,**

*Acting Director, Office of Special Counsel.*

[FR Doc. 81–32527 Filed 11–9–81; 8:45 am]

BILLING CODE 6450–01–M

---

## Shell Oil Co.; Proposed Remedial Order and Opportunity for Objection

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Proposed Remedial Order to Shell Oil Company and opportunity for objection.

### I. Introduction

Pursuant to 10 CFR 205.192, the Office of Special Counsel of the Economic Regulatory Administration (ERA), Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order issued to Shell Oil Company, Houston, Texas. In accordance with that section, a copy of the Proposed Remedial Order with confidential information, if any, deleted, may be obtained from the ERA.

### II. The Proposed Remedial Order

Shell is a refiner engaged in the production of crude oil, in refining, and in the marketing of petroleum products. Shell was therefore subject to the Mandatory Petroleum Price and Allocation Regulations which were in effect until January 28, 1981.

These regulations generally permitted refiners to increase the price of covered petroleum products only by the amount which is necessary to recoup permissible increased costs on a dollar-for-dollar basis. Moreover, refiners were required to report their calculations of increased costs on a monthly basis.

The Office of Special Counsel (OSC) of the Department of Energy conducted an examination which focused on Shell's support of its increased non-product costs available for passthrough in prices charged for covered products during the period January 1977 through February 1980. As a result of this examination, OSC determined that Shell failed to adequately support certain reported non-product costs and that this failure in turn resulted in an overstatement of the increased non-product costs available for passthrough in the prices charged for covered petroleum products in violation of 10 CFR 212.83(c)(2)(iii)(E). OSC further determined that as a result of its overstatement of the increased non-product costs available for recovery, Shell potentially miscalculated the maximum allowable prices which it could lawfully charge for covered petroleum products and, therefore, may have overcharged its customers.

In view of these findings, OSC proposes that Shell be required to reduce certain previously claimed increased non-product costs by $40,779,432 for the period January 1977 through February 1980, and provide such additional remedial relief as may be found to be appropriate.

### III. Notice of Objection.

In accordance with 10 CFR 205.193, any aggrieved person may file a Notice of Objection to the Proposed Remedial Order with the Office of Hearings and Appeals on or before November 25, 1981. A person who fails to file a Notice of Objection shall be determined to have admitted the findings of fact and conclusions of law as stated in the Proposed Remedial Order. If a Notice of Objection is not filed as provided by § 205.193, the Proposed Remedial Order may be issued as a final order.

All Notices, Statements, Motions, Responses, and other documents required to be filed with the National Office of Hearings and Appeals should be sent to: Department of Energy, Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461.

No confidential information shall be included in a Notice of Objection.

Requests for copies of the Proposed Remedial Order with confidential information deleted should be directed to: Freedom of Information Reading Room, Forrestal Building, 1000

Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585.

Issued in Washington D.C. October 30, 1981.

Bethel Larey,

*Acting Special Counsel.*

[FR Doc. 81-32528 Filed 11-9-81; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[TSH-FRL-1982-4; OPTS-51346]

### Certain Chemicals; Premanufacture Notice

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of two PMNs and provides a summary of each.

**DATES:** Written comments by: PMN 81-564—December 29, 1981. PMN 81-565—January 1, 1982.

**ADDRESS:** Written comments, identified by the document control number "[OPTS-51346]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460 (202-755-5687).

**FOR FURTHER INFORMATION CONTACT:** David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460 (202-426-2601).

**SUPPLEMENTARY INFORMATION:** The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81-564

*Close of Review Period.* January 28, 1982.

*Manufacturer's Identity.* Claimed confidential business information.

*Specific Chemical Identity.* Claimed confidential business information.

Generic name provided: Disubstitutedbenzene.

*Use.* The manufacturer states that the PMN substance will be used in a site-limited chemical intermediate.

PRODUCTION ESTIMATES

| | Kilograms per year maximum |
|---|---|
| 1st year | 50,000 |
| 2d year | 0 |
| 3d year | 0 |

*Physical/Chemical Properties*

Boiling point—224°C.

Solubility: water—<0.1%; octanol—>10%.

*Toxicity Data*

Acute oral $LD_{50}$ —600-700 mg/kg.

Acute dermal $LD_{50}$ —2-5 ml/kg.

Skin irritation—Moderate.

*Exposure.* The manufacturer states that during manufacture and use up to 80 workers may experience dermal and inhalation exposure 0.2-0.5 hr/day, up to 10 days/yr during manual transfer and cleanup operations. Exposure level will average and peak at 0-1 parts per million (ppm).

*Environmental Release/Disposal.* The manufacturer states that no release to the environment is anticipated. Disposal is by incineration.

PMN 81-565

*Close of Review Period.* January 31, 1982.

*Manufacturer's Identity.* Claimed confidential business information. Organization information provided:

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285; e.

*Specific Chemical Identity.* Claimed confidential business information. Generic name provided: Isocyanate modified polyester.

*Use.* Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

| | Kilograms per year | |
|---|---|---|
| | Minimum | Maximum |
| 1st year | 0 | 40,000 |
| 2d year | 0 | 80,000 |
| 3d year | 0 | 120,000 |

*Physical/Chemical Properties*

Flash point—190° F.

Viscosity—7.0 stokes.

Percent solids—27.1% @ 105° C.

*Toxicity Data.* No data were submitted.

*Exposure.* The manufacturer states that during manufacture, processing and use 154 workers may experience dermal and inhalation exposure up to 8 hrs/day, up to 200 days/yr during sampling and testing, filling of storage and/or shipping containers and cleaning of the processing equipment.

*Environmental Release/Disposal.* The manufacturer states that less than 10 kg/yr will be released to air and water and from 100 to 10,000 kg/yr may be released to land. Disposal is by incineration.

Dated: November 3, 1981.

**Woodson W. Bercaw,**

*Acting Director, Management Support Division.*

[FR Doc. 81-32530 Filed 11-9-81; 8:45 am]

BILLING CODE 6560-31-M

[A-10-FRL-1980-8]

### Issuance of PSD Permit to ARCO Alaska, Inc. and Sohio Alaska Petroleum Company

Notice is hereby given that on September 29, 1981, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit to Arco Alaska, Inc. and Sohio Alaska Petroleum Company for approval to install additional gas-fired turbines and heaters in the oil field at Prudhoe Bay, Alaska.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations, subject to certain conditions specified in the permit.

Under section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today (January 11, 1982). Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, M/S 521, Seattle, Washington 98101.

Dated: October 27, 1981.

**John R. Spencer,**

*Regional Administrator.*

[FR Doc. 81-32537 Filed 11-9-81; 8:45 am]

BILLING CODE 6560-38-M

[EN-9-FRL-1982-3]

## Issuance of PSD Permit to California Department of Water Resources

**AGENCY:** Environmental Protection Agency (EPA), Region 9.

**ACTION:** Notice.

**SUMMARY:** Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to California Department of Water Resources, Bottle Rock Geothermal Power Plant, Lake County, California, EPA project number NC 79–08.

**DATE:** The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 11, 1982.

**FOR FURTHER INFORMATION CONTACT:** Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Environmental Protection Assistant, E–4–1, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on June 15, 1981 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct a 55 megawatt geothermal power plant.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including an allowable emission rate for hydrogen sulfide of 5 lbs/hr, 21.9 tons/yr.

Best Available Control Technology (BACT) requirements include surface condenser/stretford process, hydrogen peroxide secondary treatment, EIC process for pretreatment, and turbine bypass.

Continuous monitoring is not required and the source is not subject to New Source Performance Standards.

Dated: October 2, 1981.

**Carl C. Kohnert, Jr.,**

*Acting Director, Enforcement Division, Region 9.*

[FR Doc. 81-32532 Filed 11-9-81; 8:45 am]

BILLING CODE 6560-38-M

[A-10-FRL-1981-1]

## Issuance of PSD Permit to Co-Gen, Inc.

Notice is hereby given that on September 29, 1981, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit to Co-Gen, Inc. for approval to construct a 24-megawatt wood waste-fired boiler near Coeur d'Alene, Idaho.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations, subject to certain conditions specified in the permit.

Under section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today (January 11, 1982). Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, M/S 521, Seattle, Washington 98101.

Dated: October 27, 1981.

**John R. Spencer,**

*Regional Administrator.*

[FR Doc. 81-32538 Filed 11-9-81; 8:45 am]

BILLING CODE 6560-38-M

[EN-9-FRL-1982-1]

## Issuance of PSD Permit to Chevron U.S.A., Inc.

**AGENCY:** Environmental Protection Agency (EPA), Region 9.

**ACTION:** Notice.

**SUMMARY:** Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to Chevron U.S.A., Inc., Kern River Oil Field and Kern Front Oil Field north of Bakersfield, Kern County, California, EPA project number SJ 80–14.

**DATE:** The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 11, 1982.

**FOR FURTHER INFORMATION CONTACT:** Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Environmental Protection Assistant, E–4–1, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on January 9, 1981 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to consolidate 2 existing Approvals to Construct/Modify for 49 steam generators in the Kern River Oil Field and Kern Front Oil Field. The existing approvals were NSR 4–4–8/SJ 76–37, issued July 19, 1977, and NSR 4–4–8/SJ 78–34, issued February 28, 1978. The purpose of consolidation was for consistency of permit conditions.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emission rates as follows: $SO_2$ at 0.10 lb/MMBtu, TSP at 0.56 lb/MMBtu, $NO_x$ at 0.50 lb/MMBtu.

Best Available Control Technology (BACT) requirements include: scrubbers for $SO_2$ and and TSP, a hydrocarbon vapor recovery system for VOC. Air Quality Impact Modeling is required for $SO_2$, $NOx_2$ and TSP. Continuous monitoring is not required and the source is not subject to New Source Performance Standards.

**Carl C. Kohnert, Jr.,**

*Acting Director, Enforcement Division, Region 9.*

Dated: October 20, 1981.

[FR Doc. 81-32533 Filed 11-9-81; 8:45 am]

BILLING CODE 6560-38-M

[EN-9-FRL-1981-8]

## Issuance of NSR Permit to Georgia-Pacific Corporation

**AGENCY:** Environmental Protection Agency (EPA), Region 9.

**ACTION:** Notice.

**SUMMARY:** Notice of Approval of New Source Review (NSR) permit to Georgia-Pacific Corporation, Fort Bragg, Mendocino County, California, EPA project number NC 79–07.

**DATE:** The NSR permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 11, 1982.

**FOR FURTHER INFORMATION CONTACT:** Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Environmental Protection Assistant, E–4–1, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on October 29, 1980 the Environmental Protection Agency issued a NSR permit to the applicant named above for approval to construct a hogged wood boiler, with capacity to burn fuel oil as a standby fuel.

This permit has been issued under EPA's New Source Review (40 CFR 51.18) regulations and is subject to certain conditions including allowable emission rates as follows: $SO_2$ at 80.6 tons/yr, $NO_x$ at 181 tons/yr, particulates at 49.5 tons/yr, CO at 89.9 tons/yr and VOC at 38.3 tons/yr.

Permit requirements include:

(1) Steam production limit on #5 hog fuel boiler of 140,000 lb/hr—24 hour average, 98,000 lb/hr—yearly average.

(2) Particulate matter:

0.03 gr/dscf @ 12% $CO_2$ (2 hr avg)

11.3 lb/hr (2 hr avg) @ 98,000 lb/hr steam production rate

(3) Fuel oil limit:

(A) fuel oil in #5 boiler) may not be used more than 438 hrs/yr

(B) fuel sulfur content < 1.75% on daily average, <1.55% on annual average

Continuous monitoring is not required.

Dated: October 1, 1981.

**Carl C. Kohnert, Jr.,**

*Acting Director, Enforcement Division, Region 9.*

[FR Doc. 81-32535 Filed 11-9-81; 8:45 am]

**BILLING CODE 6560-38-M**

---

**[EN-9-FRL-1982-2]**

## Issuance of PSD Permit to Hawaiian Independent Refinery, Inc.

**AGENCY:** Environmental Protection Agency (EPA), Region 9.

**ACTION:** Notice.

**SUMMARY:** Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to Hawaiian Independent Refinery, Inc., Campbell Industrial Park, Ewa Beach, Hawaii, EPA project number HI 81-01.

**DATE:** The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 11, 1982.

**FOR FURTHER INFORMATION CONTACT:** Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Environmental Protection Assistant, E-4-1, U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, California 94105.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on August 18, 1981 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct one 110mmBTU/hr crude oil heater and one 125mmBTU/hr hydrogen generator.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emission rates as follows: $SO_2$ at 60 lb/hr for the oil heater and 2.4 lb/hr for the hydrogen generator, $NO_x$ at .4 lb/mmBTU for the oil heater and .2 lb/mmBTU for the hydrogen generator, and TSP at 6.1 lb/hr for the oil heater and 1.4 lb/hr for the hydrogen generator.

Best Available Control Technology (BACT) requirements include use of 0.5% fuel oil for the oil heater and "Low $NO_x$" burners. Air Quality Impact Modeling is required for $SO_2$, $NO_x$ and TSP. Continuous monitoring is not required. The source is subject to New Source Performance Standards.

Dated: October 31, 1981

**Carl C. Kohnert, Jr.,**

*Acting Director, Enforcement Division, Region 9.*

[FR Doc. 81-32534 Filed 11-9-81; 8:45 am]

**BILLING CODE 6560-38-M**

---

**[A-10-FRL-1980-7]**

## Issuance of PSD Permit to Panorama Enercorp, Inc.

Notice is hereby given that on September 22, 1981, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit to Panorama Enercorp, Inc. for approval to construct a 37-megawatt wood waste-fired power plant near Kettle Falls, Washington.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations, subject to certain conditions specified in the permit.

Under section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today (January 11, 1982). Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, M/S 521, Seattle, Washington 98101.

Dated: October 27, 1981.

**John R. Spencer,**

*Regional Administrator.*

[FR Doc. 81-32538 Filed 11-9-81; 8:45 am]

**BILLING CODE 6560-38-M**

---

## DEPARTMENT OF DEFENSE

## ENVIRONMENTAL PROTECTION AGENCY

### Corps of Engineer, Department of the Army

**[ER-FRL-1980-6]**

## Jurisdiction of 404 Program; Extension of Memorandum of Understanding

**AGENCY:** Environmental Protection Agency and Corps of Engineers, DOD.

**ACTION:** Notice of agreement to extend Memorandum of Understanding on Geographical Jurisdiction of section 404 Program.

**SUMMARY:** Notice is hereby given that the Administrator of the Environmental Protection Agency and the Secretary of the Army have agreed to extend the April 23, 1980, Memorandum of Understanding (MOU) on Geographical Jurisdiction of the Section 404 Program from its original expiration date of October 23, 1981, to a new expiration date of September 30, 1982.

**DATE:** This MOU extension was consummated on October 22, 1981.

**FOR FURTHER INFORMATION CONTACT:**

John W. Meagher, Chief, 404 Program Branch, Office of Federal Activities (A-104), Environmental Protection Agency, Washington, D.C. 20460, (202) 472-2798, or

Bernie Goode, Chief, Regulatory Functions Branch, Headquarters, Department of the Army, DAEN-CWO-N, Washington, D.C. 20314, (202) 272-0199

**SUPPLEMENTARY INFORMATION:** The April 23, 1980, MOU on Geographical Jurisdiction of the section 404 Program was published in the **Federal Register** on July 2, 1980 (45 FR 45018). In accordance with the MOU and within twelve (12) months of its effective date, EPA and the Corps of Engineers were to institute a reviw of the agreement, consider any comments received, and make such revisions as the agencies deemed appropriate. Such revisions were to be published in the **Federal Register** within eighteen (18) months of the effective date.

EPA and the Corps of Engineers have conducted a review of the MOU and the comments received. However, because the Administration under the aegis of the Vice President's Task Force on Regulatory Reform is currently reviewing the Corps of Engineers' overall regulatory program, including jurisdictional aspects of the 404 program, we have decided to extend the MOU without revision at this time. The agreement to extend the MOU

recognizes that either agency may terminate the MOU at any time, that it will not continue beyond September 30, 1982, without mutual consent, and that it may be modified in the interim if inconsistencies result from new law, executive order, or deficiencies not now apparent in the MOU.

Dated: October 29, 1981.

**Paul C. Cahill,**

*Director, Office of Federal Activities.*

[FR Doc. 81-32543 Filed 11-9-81; 8:45 am]

BILLING CODE 6560-37-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[Docket No. FEMA-REP-7-IA-2]**

### Iowa Radiological Emergency Plan; Receipt of Plan

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice of receipt of plan.

**SUMMARY:** For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has a responsibility for reviewing the State and local government plans, the State of Iowa has submitted its radiological emergency plans to the FEMA Regional Office. These plans support the Ft. Calhoun Nuclear Station located at Ft. Calhoun, Nebraska.

**DATE PLANS RECEIVED:** October 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** Mr. Patrick J. Breheny, Regional Director, FEMA, Region VII, 911 Walnut, Room 300, Kansas City, Missouri 64106, (816) 374-5912.

Notice

In support of the Federal requirement for emergency response plans, FEMA has proposed a Rule describing its procedures for review and approval of State and local government's radiological emergency response plans. Pursuant to this proposed FEMA Rule (44 CFR 350.8), "Review and Approval of State Radiological Emergency Plans and Preparedness," the Iowa Emergency Plan was received by the Federal Emergency Management Agency Region VII Office.

Included are plans for Harrison and Pottawattamie Counties which are wholly or partially within the plume exposure pathway emergency planning zones of the Ft. Calhoun plant.

Copies of the Plan are available for review at the FEMA Region VII Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5. There are 1135 pages in the document; reproduction fees are $.10 a page payable with the request for copy.

Comments on the Plan may be submitted in writing to Mr. Patrick J. Breheny, Regional Director, at the above address on or before December 10, 1981.

**Patrick J. Breheny,**

*Regional Director, Federal Emergency Management Agency—Region VII*

October 23, 1981.

[FR Doc. 81-32482 Filed 11-9-81; 8:45 am]

BILLING CODE 6718-01-M

**[FEMA-648-DR]**

### Texas; 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 Texas (FEMA-648-DR), dated October 23, 1981, and related determinations.

**DATED:** October 29, 1981.

**FOR FURTHER INFORMATION CONTACT:** Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0491.

**NOTICE:** The Notice of a major disaster for the State of Texas dated October 23, 1981, 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 October 23, 1981.

Grayson, Palo Pinto and Tarrant Counties for Individual Assistance only

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance)

**John E. Dickey,**

*Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.*

[FR Doc. 81-32479 Filed 11-9-81 8:45 am]

BILLING CODE 6718-01-M

**[Docket: FEMA-REP-3-VA-2]**

### Virginia Radiological Emergency Response Plan; Receipt of Plan

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice of receipt of plan.

**SUMMARY:** For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has a responsibility for reviewing the State and local government plans, the Commonwealth of Virginia has submitted its radiological emergency plans to the FEMA Regional Office. These plans support nuclear power plants which impact on Virginia, and include those of local governments near the Virginia Electric Power Company's Surry Power Station located in Surry County.

**DATE PLANS RECEIVED:** October 27, 1981.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert J. Adamcik, Acting Regional Director, FEMA, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-9416.

Notice

In support of the Federal requirement for emergency response plans, FEMA has proposed a Rule describing its procedures for review and approval of State and local government's radiological emergency response plans. Pursuant to this proposed FEMA Rule (44 CFR 350.8), "Review and Approval of State Radiological Emergency Plans and Preparedness," 45 FR 42341, the State Radiological Emergency Response Plan for the Commonwealth of Virginia was received by the Federal Emergency Management Agency Region III Office.

Included are plans for local governments which are wholly or partially within the plume exposure pathway emergency planning zone of the nuclear plant. For the Surry Power Station, plans are included for Surry, Isle of Wight, James City and York Counties and the Cities of Williamsburg and Newport News. Also enclosed are the plans of Charles City and New Kent Counties and the Cities of Hampton and Poquosen. These political subdivisions serve as host areas to other jurisdictions.

Copies of the Plan are available for review at the FEMA Region III Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5. There are 2388 pages in the document; reproduction fees are $.10 a page payable with the request for copy.

Comments on the Plan may be submitted in writing to Mr. Robert J. Adamcik, Acting Regional Director, at the above address on or before December 10, 1981.

FEMA proposed Rule 44 CFR 350.10 also calls for a public meeting prior to

approval of the plans. Details of this meeting will be announced in *The Daily Press/Times Herald*, Newport News at least two weeks prior to the scheduled meeting. Local radio and television stations will be requested to announce the meeting.

**Robert J. Adamcik,**

*Acting Regional Director, Federal Emergency Management Agency—Region III.*

October 29, 1981.

[FR Doc. 81-32483 Filed 11-9-81; 8:45 am]

BILLING CODE 6718-01-M

## FEDERAL MARITIME COMMISSION

### Ageements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 30, 1981. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operate to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-1875-1.

Filing party: James J. Mason, Esquire, 1008 South Yakima, Tacoma, Washington 98405.

Summary: Agreement No. T-1875-1, between the Port of Tacoma (Port) and Kaiser Aluminum and Chemical Corporation (Kaiser), amends the parties' basic agreement providing for the preferential berthing of Kaiser's alumina vessels at Berth C of Pier 7 in the Port of Tacoma, Washington, as well as for crane operators provided by Port. The purpose of the amendment is to extend the basic agreement's term to November 1, 1999, with automatic renewal not to extend beyond October 31, 2009. Additionally, the agreement provides that the fees assessed per short ton of alumina for wharfage, services and facilities, and crane rental are increased, respectively, to $.18, $.05, and $.48, and are subject to adjustment on January 1, 1985, and every five years thereafter. The terms of the amendment are effective January 1, 1981.

Agreement No. T-3998.

Filing party: Mr. Randall V. Adams, Traffic/Accounting, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T-3998, between the Port of Palm Beach (Port) and Grand Bahama Hotel, Co., dba Williams Shipping Agency (Williams) provides for the five-year lease (with renewal options) for approximately 954 sq. ft. of office space and 4883 sq. ft. of warehouse space on the first and second floors of Warehouse A, Port of Palm Beach Terminal, Riviera Beach, Florida. The leased premises will be used for the purposes of office space and cargo storage.

As compensation, Williams shall pay Port a monthly rental of $1,211.33 during the first year of the initial term, plus applicable port tariff charges. The rental payments shall be adjusted based on the change of the cost-of-living index during the initial term and renewal term as provided for in the agreement. The parties further agree to provisions of indemnification, insurance, modification to improvements and other terms and conditions provided for in the agreement. This agreement will cancel Agreement No. T-3241.

Agreement No. 161-38.

Filing party: Howard A. Levy, Attorney at Law, Suite 727, 17 Battery Place, New York, New York 10004.

Summary: Agreement No. 161-38, among the member lines of the Gulf/United Kingdom Conference, amends Article 6 of the basic agreement to authorize appointment of a Europen resident representative to perform such functions as the Conference Chairman may assign and delete such as attending meetings of the Conference and presiding at meetings held in Europe. In particular, the European representative shall assist the Chairman in the implementation of shippers' requests and complaint procedures adopted and maintained in Europe by the Conference.

Agreement No. 10270-3.

Filing party: Howard A. Levy, Attorney at Law, Suite 727, 17 Battery Place, New York, New York 10004.

Summary: Agreement No. 10270-3, among the member lines of the Gulf/European Freight Association, amends Article 12 of the basic agreement to authorize appointment of a European resident representative to perform such functions as the Association Chairman may assign and delegate, such as attending meetings of the Association and presiding at meetings held in Europe. In particular, the European representative shall assist the Chairman in the implementation of shippers' request and complaint procedures adopted and maintained in Europe by the Conference.

By order of the Federal Maritime Commission.

Dated: November 5, 1981.

**Francis C. Hurney,**

*Secretary.*

[FR Doc. 81-32484 Filed 11-9-81; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL PREVAILING RATE ADVISORY COMMITTEE

### Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, December 10, 1981
Thursday, December 17, 1981

These meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the

labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washington, D.C. 20415 (202–632–9710).

**William B. Davidson, Jr.,**

*Chairman, Federal Prevailing Rate Advisory Committee.*

November 3, 1981.

[FR Doc. 81–32461 Filed 11–9–81; 8:45 am]

BILLING CODE 6325–01–M

## FEDERAL RESERVE SYSTEM

### Bank Holding Companies; Proposed de novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such a undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 1, 1981.

**A. Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. Bankers Trust New York Corporation, New York, New York (financing, trust company, investment advisory, and leasing activities; Arkansas, Louisiana, Mississippi, Oklahoma, and Texas): To engage through a *de novo* office of its subsidiary BT Southwest, Inc., in the following activities: the facilitation of and/or the making or acquiring for its own account or for the account of others, unsecured loans (including reat estate loans) and other extensions of credit (including issuing letters of credit and accepting drafts); servicing loans and other extensions of credit; and leasing real and personnel property and equipment or acting as agent, broker or advisor in leasing such property. The leases will serve as the functional equivalent of an extension of credit or such leases will be on a full payout basis. These activities will be conducted from an office in Dallas, Texas, serving the States of Arkansas, Louisiana, Mississippi, Oklahoma, and Texas.

2. Chemical New York Corporation, New York, New York (leasing, financing, factoring and servicing activities; Minnesota, North Dakota, South Dakota, western Wisconsin, northern Iowa): To engage through its owned subsidiary, CHEMICAL BUSINESS CREDIT CORP., in the following activities: leasing real and personal property and equipment on a non-operating, full payout basis, and acting as agent, broker and advisor with respect to such leases; financing real and personnel property and equipment such as would be done by a commercial finance company, and servicing such extensions of credit; making or acquiring loans and other extensions of credit (including issuing letters of credit and accepting drafts) as would be made a factoring company. The activities of this branch office of Chemical Business Credit Corp. will be conducted from an office in Bloomington, Minnesota. The geographic area to be served by this office is the States of Minnesota, North Dakota, South Dakota, western Wisconsin and northern Iowa.

**B. Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

Maryland National Corporation, Balitmore, Maryland (leasing, insurance, and financing activities; New York and New Jersey): To engage through its subsidiary, Maryland National Leasing Corporation, in the following activities: engaging generally in the business of leasing real and personal property where the lease is the functional equivalent of an extension of credit (Personal property leased would include, but not be limited to, various types of equipment, machinery, vehicles, transportation equipment, and data processing equipment. The activity would also include conditional sales contracts and chattel mortgages); acting as adviser in real and personal property leasing transactions; originating, servicing, buying, selling, and otherwise dealing in personal property lease contracts as principal or agent; originating real property leases as principal or agent and servicing such leases for affiliated or nonaffiliated individuals, partnerships, corporations, and other entities; buying, selling, and otherwise dealing in real property leases as principal, agent, or broker; engaging in the sale, as agent or broker, of insurance similar in form and intent to credit life and or mortgage redemption insurance; engaging generally in commercial lending operations, including but not limited to secured and unsecured commercial loans and other extensions of credit to commercial enterprises; and acting as advisor or broker in commercial lending transactions. These activities would be conducted from and office in Manasguan, New Jersey, serving the States of New Jersey and New York.

**C. Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Rainier Bancorporation, Seattle, Washington (investment advisory activities; United States): To engage through its subsidiary, Rainier Real Estate Advisors, Inc., in serving as an advisory company for trusts, pension and profit sharing funds, real estate investment trusts and other persons, firms or entities; serving as investment advisor as defined in section 2(a)(20) of the Investment Company Act of 1940 with respect to real estate related securities; and providing real estate investment advice to any person except where the real property is to be used in the trade or business of the person being advised. Rainier Real Estate Advisors, Inc. will limit its activities to rendering real estate investment or financial advice with respect ot real estate located in continental United States, Alaska, Hawaii, Puerto Rico, or in any commonwealth, territory or possession of the United States although such advice may be rendered to foreign persons as well as United States persons. These activities will be conducted from an office in Seattle, Washington.

**D. Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, November 3, 1981.

**Theodore E. Downing, Jr.,**

*Assistant Secretary of the Board.*

[FR Doc. 81-32494 Filed 11-9-81; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 81N-0257]**

### Studies of Effects of Marketed Drugs; Cooperative Agreements

*Correction*

In FR Doc. 81-28977 appearing at page 49206 in the issue for Tuesday, October 6, 1981, please make the following corrections:

(1) On page 49208 in the third column, in the second line from the top of the column, "BD-DDE-81-1".

(2) On page 49209, in the middle column in Appendix III, in table column 1B, in the seventh line, "$I^{123'}$" should have read "$I^{125'}$".

(3) Also in Appendix III, in table column 1C, in the entry for 1978, in the second line, "cefadoxil" should have read "cefadroxil".

BILLING CODE 1505-01-M

**[Docket No. 81D-0274]**

### Topical Corticosteroids; Class Labeling Guideline

*Correction*

In FR Doc. 81-28974 appearing at page 49205 in the issue for Tuesday, October 6, 1981, please make the following corrections:

(1) In the heading of the document, "Project No. 81D-0274" should have read "Docket No. 81D-0274".

(2) On page 49206, in the first column, in the first full paragraph, in the list of drugs, in the sixth line, "Desoximethasone" should have read "Desoximetasone".

BILLING CODE 1505-01-M

**[Docket No. 81F-0309]**

### Union Camp Corp.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Union Camp Corp., Chemical Division, has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyamide resins derived from dimerized vegetable oil acids, azelaic acid, ethylenediamine, and piperazine as the basic resin in coatings for polypropylene film in contact with food.

**FOR FURTHER INFORMATION CONTACT:** Patricia J. McLaughlin, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3384) has been filed by Union Camp Corp., Chemical Division, P.O. Box 2668, Savannah, GA 31402, proposing that the food additive regulations be amended to provide for the safe use of polyamide resins derived from dimerized vegetable oil acids, azelaic acid, ethylenediamine, and piperazine as the basic resin in coatings for polypropylene film in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: October 28, 1981.

**Sanford A. Miller,**

*Director, Bureau of Foods.*

[FR Doc. 81-32285 Filed 11-9-81; 8:45 am]

BILLING CODE 4110-03-M

## Public Health Service

### Intent to Grant Exclusive Patent License; KFM Corporation, Inc.

Pursuant to 45 CFR 6.3 and 41 CFR Part 101-4, notice is hereby given of intent to grant to the KFM Corporation, Inc., an exclusive license to manufacture, use and sell an invention by Drs. Theodore R. Colburn and Bruce M. Smith, entitled "Activity Monitor for Ambulatory Subjects," which is described and claimed in application for Letters Patent of the United States Serial No. 790,988, filed April 26, 1977. A copy of the patent application may be obtained upon written request submitted to the Chief, Patent Branch, Department of Health and Human Services, c/o National Institutes of Health, Westwood Building, Room 5A03, Bethesda, MD 20205.

The proposed license will have a duration of (5) five years, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with the Department of Health and Human Services Patent Regulations. DHHS will grant the license unless, within (60) sixty days of this notice, the Chief, Patent Branch, whose address is given above, receives in writing any of the following, together with supporting documents:

(1) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(2) An application for a nonexclusive license to manufacture or sell the invention in the United States is submitted in accordance with 41 CFR 101-4-104-2, and the applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant Secretary for Health of the Department of Health and Human Services will review all written responses to this Notice.

(45 CFR 6.3 and 41 CFR Part 101-4)

Dated: November 4, 1981.

Edward N. Brandt, Jr.,

*Assistant Secretary for Health.*

[FR Doc. 81-32492 Filed 11-9-81; 8:45 am]

BILLING CODE 4110-12-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### Classification Decision; Lease or Sale; Graham County, Arizona

The following described land has been reexamined and found suitable for lease or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (44 Stat. 741).

Gila and Salt River Meridian

Township 6 South, Range 28 East,
Sec. 32: Lot 3, 4.

The above described land is valuable for public purposes and is therefore considered chiefly valuable for public purposes. This classification is consistent with Land Use Plan for these lands.

These lands were previously classified in February 1967 and subsequently leased to the Safford Public School District as a future school site. This lease was relinquished in 1977.

Classification of the land under the provisions of the above-cited Act will segregate it from all forms of appropriation, including location under the mining laws, except applications under the mineral leasing laws and application under the recreation and Public Purposes Act.

Information concerning the proposed classification is available at the Safford District Office, 425 East 4th Street, Safford, Arizona 85546-2092.

Applications for lease or sale under the above cited Act may be filed within 18 months of issuance of this notice. Interested parties may contact the Safford District Manager at the address above.

Dated: August 30, 1981.

Lester K. Rosenkrance,

*District Manager.*

[FR Doc. 81-32469 Filed 11-9-81; 8:45 am]

BILLING CODE 4310-84-M

### California Desert District; Eastern San Diego County Wilderness Study Areas; Hearing

**AGENCY:** Bureau of Land Management.

**ACTION:** Notice of a public hearing to explain a proposal for the future management of the Eastern San Diego County Wilderness Study Areas (WSAs) and to obtain information and advice from the public on these areas.

**SUMMARY:** The areas concerned include the San Ysidro Mountain WSA (CA-060-022), San Felipe Hills WSA (CA-060-023), Sawtooth Mountains WSA (CA-060-024-A, B, & C), Carrizo Gorge WSA (CA-060-025), and Table Mountain WSA (CA-060-026). The Eastern San Diego County WSAs collectively contain approximately 54,000 acres within San Diego County which are administered by the El Centro Resource Area Office of the United States Bureau of Land Management.

**DATE:** The hearing will be held on Monday, December 7, 1981, from 2:00 to 5:00 and from 7:00 to 10:00 p.m. in the Fine Arts Center, 8053 University Ave., La Mesa, CA 92041.

**FOR FURTHER INFORMATION CONTACT:** Area Manager, El Centro Resource Area, Bureau of Land Management, 333 S. Waterman Ave., El Centro, CA 92243.

**SUPPLEMENTARY INFORMATION:** The proposal for the WSAs is included in the Wilderness section of the Summary Map accompanying the presently available Eastern San Diego County Management Framework Plan Report. The map includes an overview of the Bureau of Land Management's land use plan for public lands in Eastern San Diego County. On the Summary Map, WSAs recommended as suitable for Wilderness designation are shown as Multiple Use Class C (green). WSAs recommended as non-suitable are also indicated on the map. Copies of the Eastern San Diego County Management Framework Plan Report and Summary Map will be sent to those requesting additional information. Written comments by those wishing to have their viewpoints included in the official record of the meeting must be received by January 15, 1982.

Bruce B. Ottenfeld,

*Acting District Manager.*

[FR Doc. 81-32459 Filed 11-9-81; 8:45 am]

BILLING CODE 4310-84-M

[U-40775]

### Salt Lake District, Utah; Realty Action; Kennecott Land Exchange

**AGENCY:** Bureau of Land Management. Interior.

**ACTION:** Notice.

**SUMMARY:** The Salt Lake District office of the Bureau of Land Management is considering the possible environmental consequences of a proposed exchange of 1,357.492 acres of public land for 1,473.1 acres of private land between Kennecott Corporation (KC) and the United States. The public lands involved in that exchange are located in and around the Bingham Pit, in the lower portions of Butterfield Canyon north of the Butterfield Canyon road, and at Lakepoint. Adjacent private lands are owned by KC and used for mining operations. Private lands involved are all located within the boundaries of the Camp Williams Military Reservation.

Private (Offered) Lands:

Surface and mineral estates

T. 4 S., R. 2 W., SLM,
Sec. 29: Lot 3;
Sec. 33: NW¼NW¼.

Surface estate only

T. 4 S., R. 2 W., SLM,
Sec. 25: Lots 4, 5, 6, SE¼NE¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 26: Lots 5, 6, 7.
T. 4 S., R. 1 W., SLM,
Sec. 29: SW¼NW¼, NW¼SW¼;
Sec. 30: Lots 2, 3, 4, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
T. 4 S., R. 1 W., SLM,
Sec. 19: Lot 20;
Sec. 20: NW¼SW¼.
T. 4 S., R. 2 W., SLM,
Sec. 23: Lots 9, 10, 12, 13;
Sec. 24: Lot 4.
T. 4 S., R. 1 W., SLM,
Sec. 29: SE¼NW¼, NE¼SW¼.

*Total Private Lands* = 1,473.1 acres.

Public (Selected) Lands:

Surface and Mineral Estates

Fifty-three (53) fragmented parcels (including Lot 62) located at and around the Bingham Pit. T. 3 & 4 S., R. 3 W., SLM (53.547 acres)
A portion of Parcel 8, Sections 18 & 19, T. 3 S., R. 2 W., SLM (38.963 acres)
An irregular portion of Parcel 8, Sections 18 & 19, T. 3 S., R. 2 W., SLM containing (85.743 acres)
Parcel 12, Sections 19, 30 & 31, T. 3 S., R. 2 W., SLM (201.685 acres)
Parcel 25, Sections 1, 2, 11 & 12, T. 4 S., R. 3 W., SLM (390.575 acres)
T. 1 S., R. 4 W.,
Sec. 25: S½NE¼, SE¼, NE¼SW¼ (Lakepoint public lands) 280 acres.
T. 1 S., R. 4 W., SLM,
Sec. 25: NE¼NE¼, SE¼SW¼, 80 acres.
T. 4 S., R. 2 W., SLM,
Sec. 6: Portions of Lots 3, 4, Lots 5, 6, 7, 8, 9
Sec. 7: Lot 1 (Nevada Tract) 226.979 acres.

*Total Public Lands = 1,357.492 acres.*

The value of the total lands to be exchanged is approximately equal, and money will be used to equalize the appraised values of the lands.

The purpose of this exchange is to acquire private inholdings within the main boundaries of the Camp Williams Millitary Reservation, improve the manageability and operational safety of military activities within the reservation boundaries, consolidate public and private land ownership and make available to KC lands which are needed for mineral related developments.

Detailed information concerning the exchange, including an environmental assessment, is available for your review at the Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119, telephone number 524–5348. The BLM has determined that the proposed exchange would not have a significant impact on the environment.

For a period of 30 days, interested parties may review and comment on the environmental assessment at the District Office. During this comment period an open house-type public meeting will be held in Herriman, Utah. This will be at the Herriman Lions Community Center. The purpose of this meeting is not to accept formal comments, but rather to provide information about the proposed exchange to the public, and to answer questions. Formal comments should be made in writing to the District Manager at the above address. All comments will be evaluated and the findings of no significant impact may be vacated or modified.

Frank W. Snell,

*District Manager.*

[FR Doc. 81-32470 Filed 11-9-81; 8:45 am]

BILLING CODE 4310-84-M

---

[NM 27237]

## New Mexico; Order Providing for Opening of Public Lands

October 28, 1981.

In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (49 Stat. 1272, as amended, 43 U.S.C. 315g), the following lands have been reconveyed to the United States:

New Mexico Principal Meridian

*Lincoln National Forest*

T. 9 S., R. 11 E.,
Secs. 13 and 24, Cashier Lode Mining Claim, M.S. 639.
T. 9 S., R. 12 E.,
Secs. 13 and 14, Cashier Lode Mining Claim, M.S. 639.
T. 9 S., R. 12 E.,
Secs. 13 and 14, Grover Cleveland Lode Mining Claim, M.S. 723, portions not in conflict with M.S. 639 (Cashier Lode Mining Claim) and M.S. 568 (Diamond Crown Mining Claim).

The areas described aggregate 39.201 acres in the Nogal Mining District of Lincoln County.

Upon acceptance of title to such lands, they became part of the Lincoln National Forest and are subject to all the laws, rules and regulations applicable thereto.

At 10:00 a.m., on December 14, 1981, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Inquiries concerning the lands should be addressed to the Regional Forester, 517 Gold St., S.W., Albuquerque, New Mexico 87102.

Robert E. Wilber,

*Acting State Director.*

[FR Doc. 81-32503 Filed 11-9-81; 8:45 am]

BILLING CODE 4310-84-M

---

## Boise District Office; Bruneau-Kuna Grazing Environmental Impact Statement

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Bruneau-Kuna Grazing Environmental Impact Statement. Notice of Intent to Prepare an Environmental Impact Statement and Invitation for Public Participation (Scoping).

**SUMMARY:** Notice is hereby given in accordance with 40 CFR 1501.7 that the Bureau of Land Management (BLM) will prepare an EIS for proposed livestock grazing management and vegetative allocation on approximately 2.3 milliion acres of public lands within the Bruneau and Owyhee Resource Areas, Boise District, BLM.

The lands under consideration are located primarily in Southwest Idaho, including portions of Ada, Elmore, and Owyhee Counties. A small portion of the area is located in North-Central Nevada, Elko County.

**DATES:** Two open houses will be held at the Boise District Office, 3948 Development Avenue, Boise, Idaho, from 1:00 p.m. to 8:00 p.m. on December 14, 1981, and December 15, 1981. Oral comments may be submitted at the open house or written comments may be mailed to the Boise District Office until January 15, 1982.

**ADDRESS:** Comments should be sent to: Boise District, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705.

**FOR FURTHER INFORMATION CONTACT:** Ted Milesnick, EIS Team Leader, Boise District Office, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, telephone (208) 334–1582.

**SUPPLEMENTARY INFORMATION:** The proposed action will be based on multiple use recommendations developed in the land use plans (Management Framework Plans) for the Bruneau Resource Area and portions of the Owyhee Resource Area. Vegetative allocation between consumptive and non-consumptive uses is proposed to maintain and/or improve soil, water, and vegetation resources. The construction of additional range management facilities (fencing, water development, etc.) and a vegetative treatment practices (burning, plowing, chemical, seeding, etc.) are also proposed.

Tentative alternatives to the proposed action which will be analyzed in the EIS are:

1. No change in present grazing practices or levels of livestock use.
2. No grazing.
3. Optimize livestock production within the capability of the resource base. Livestock use would be allocated at a higher level than in the proposed action.
4. Optimize wildlife and non-consumptive uses. The allocation of forage to livestock would be at a level less than in the proposed action.

A scoping process will be conducted to determine the significant issues to be analyzed in depth in the EIS and to eliminate the nonsignificant issues from detailed study. As part of the scoping process, the open houses will provide interested parties an opportunity to review the draft proposed action, alternatives, and previously identified issues. Participants will be encouraged to identify significant issues or additional issues and alternatives which should be addressed in the EIS. The open house will also allow the public an opportunity to review and comment on the draft land use plan for the study area.

Martin J. Zimmer,

*District Manager.*

[FR Doc. 81-32504 Filed 11-9-81; 8:45 am]

BILLING CODE 4310-84-M

---

## Oklahoma; Availability of Draft Environmental Assessment, Public Meeting, and Request for Comments on Fair Market Value

**AGENCY:** Bureau of Land Management; Interior.

**ACTION:** Notice of availability of draft environmental assessment; public meeting; and request for comments on fair market value.

**SUMMARY:** This notice will serve three purposes: (1) To advise the public that the Albuquerque, New Mexico, District Office of the Bureau of Land Management (BLM) has released a Draft Environmental Assessment (DEA) and opened the 30-day public review and comment period; (2) To notify the public of a meeting scheduled for November 19, 1981, to present the findings of the DEA and hear comments; and (3) To solicit

written public comment concerning the fair market value of the coal resources presented in the amendment.

**FOR FURTHER INFORMATION CONTACT:** Mark A. Butler, (405) 231–4481, Oklahoma Resource Area Office, Bureau of Land Management, Room 548, 200 NW. Fifth Street, Oklahoma City, Oklahoma 73102.

1. *Availability of Draft Environmental Assessment.* Prepared in response to a competitive lease application by Great National Corporation, the DEA covers a 415-acre area in LeFlore County, Oklahoma, 10 miles northeast of the City of Poteau, and is described as:

Township 8 North, Range 26 East of Indian Meridian, LeFlore County, Okla.
Section 12: NE SE SE S½ S½ SE SE SE SW
Section 13: N½ NW N½ SW NW N½ N½ NE SW NW NE
Section 14: S½ NE S½ NE NE SE NW NE
Township 8 North, Range 27 East of Indian Meridian, LeFlore County, Okla.
Section 7: SW SW S½ NE SW N½ SE SW SW SE SW S½ NW SE N½ SW SE
Section 18: NW NW NW

Application of unsuitability criteria (43 CFR, Part 3461), interrelationships with existing land use decision, coordination with other state and federal agencies, and analysis of those values that could be impacted by coal development have been addressed in the DEA. Comments on the DEA should be addressed to the Oklahoma Resource Area Office (address above) to arrive no later than 30 days from the date of this notice.

2. *Public Meeting.* A public meeting will be held Thursday, November 19, 1981, at 7:30 p.m. in the Poteau Civic Center in Poteau, Oklahoma. The purpose of the meeting is to present the findings of the Draft Environmental Assessment, application of unsuitability criteria, and to hear comments from the public on the proposal and analysis. During the public meeting, the U.S. Geological Survey will be available to answer questions on the economic evaluation and the mining methods to be used in recovery of the coal. Comments received at the meeting, both oral and written, will be considered in preparation of the final MFP amendment.

3. *Request for Public Comment on Fair Market Value of the Coal Resource.* The public is invited to submit written comments concerning the fair market value of the coal resource in the lease application area to the BLM and to the U.S. Geological Survey. Public comments will be used in establishing fair market value for the coal resources in the area described above. Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resource; the price that the mined coal would bring in the market place; the cost of producing the coal; the probable timing and rate of production; the interest rate at which anticipated income streams would be discounted; depreciation and other accounting factors; the expected rate of industry return; the value of the surface estate (if private surface); and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions may also be submitted at this time. These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1–2. If any information submitted is considered proprietary by the person submitting it, the information should be labeled as such and stated in the first page of the submission. Comments on fair market value should be sent to both the State Director, New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico, 87501, and to the Conservation Manager, South Central Region, Conservation Division, U.S. Geological Survey, P.O. Box 26124, Albuquerque, New Mexico, 87125, to arrive no later than December 10, 1981.

The coal resource to be evaluated consists of all the coal minable by surface methods in the 415-acre lease application area. The estimated total strippable reserves are 1,197,500 tons. The quality of the Lower Hartshorne coal bed is as follows: 13,120 Btu per pound, 1.4 percent sulfur, and 14.1 percent ash. The Lower Hartshorne coal bed averages 2.9 feet in thickness. Approximately 250 acres of the above-described lands are underlain by the Lower Hartshorne coal bed at depths of less than 150 feet.

**L. Paul Applegate,**

*Albuquerque District Manager.*

[FR Doc. 81–32505 Filed 11–9–81; 8:45 am]

BILLING CODE 4310–84–M

---

## Bureau of Reclamation

### Auburn-Folsom South Unit, American River Division, Central Valley Project, Calif.; Intent to Prepare a Supplemental Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare a supplement to the Final Environmental Statement, Auburn-Folsom South, American River Division—Central Valley Project, California. The proposed supplement will analyze and discuss the impacts of modifications to the authorized Auburn-Folsom South Unit.

The study will evaluate alternative plans to meet the water needs in the authorized Folsom South service area, including the availability of other supplemental sources of water supply. In addition, the study will review methods which will provide minimum flows in the Lower American River greater than those which are currently authorized. These additional flows will allow the enhanced fishery and recreation resources developed on the Lower American River to be maintained. Consideration also will be given to an enlarged and modernized salmon and steelhead fish hatchery at the existing Nimbus Hatchery site.

Sufficient water supplies are not currently available from the American River to meet all desired uses. Alternatives exist which either singly or in combination could be utilized to better serve the needs of the communities impacted by Auburn Folsom South Unit. Some of these are: (1) Development of additional water supplies from other sources; (2) reduction or elimination of all or part of the uses currently contemplated; or (3) recapture and reuse of water after it has served one purpose so that it could be used for another purpose.

There will be two scoping sessions to solicit information from all interested public entities and persons to assist in determining the variety of issues to be addressed and to identify the significant issues related to the proposed action. Scoping sessions will be held in Stockton, California on Wednesday, December 2, 1981, and Sacramento, California on Thursday, December 3, 1981. The time and place of these scoping sessions will be announced in the local media two weeks prior to each session. Additional written notification will be provided to all known interested entities.

For this supplement to the environmental statement, the contact person will be: Charles R. Long, Office of Environmental Quality, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484–4792.

Dated: November 4, 1981.

**Aldon D. Nielsen,**

*Acting Assistant Commissioner.*

[FR Doc. 81–32525 Filed 11–9–81; 8:45 am]

BILLING CODE 4310–09–M

### Contract Negotiations with the City of Yuma and the Gila Project Contractors, Ariz.; Intent to Begin Contract Negotiations To Amend Contract No. 14-06-W-106

The Department of the Interior, through the Bureau of Reclamation, intends to initiate negotiations with the city of Yuma (city) and the Gila Project Contractors to amend the city's water service contract. The amendatory contract would allow the city to divert part of its annual entitlement of 50,000 acre-feet of Colorado River water from the Gila Project's Yuma Mesa Unit "A" Canal. The Gila Project Contractors include the following irrigation districts: North Gila Valley Irrigation District, Yuma Irrigation District, Yuma Mesa Irrigation and Drainage District, Wellton-Mohawk Irrigation and Drainage District, and Unit B Irrigation and Drainage District. The proposed amendatory contract would be made pursuant to the Miscellaneous Purposes Act of February 25, 1920 (41 Stat. 451).

The city is requesting a maximum diversion of 3,613 acre-feet per year subject to the limitation that such delivery will not exceed 5 cubic feet per second at any one time at Imperial Dam. Under terms of the city's existing water service contract the city is obtaining its water from the Yuma Project's Colorado River Siphon outlet located adjacent to the city's water treatment facilities. Due to growth to the city, it has become necessary for the city to construct a treatment plant east of the city on the Yuma Mesa. There is no other practicable source of delivery of water to satisfy the domestic needs of the eastern portion of the city that does not entail substantial expenses by way of condemnation to construct diversion canals and facilities to deliver water from the current point of diversion to the new treatment plant.

Payment for the water will be negotiated among the parties to the amendatory contract. The city will continue to pay the United States $0.25 per acre-foot for Colorado River water as provided in the 1944 contract between the United States and the State of Arizona. However, payment will not start until the water ordered and delivered is in excess of 2,333 acre-feet, the annual diversion which was provided in the amended miscellaneous present and perfected rights contract, No. 14-06-W-106, executed pursuant to the January 9, 1979, Supreme Court Decree.

The public may observe any meeting scheduled by the Bureau of Reclamation for the purpose of discussing terms and conditions of the proposed amendatory contract. Advance notice of such meetings will be furnished to those parties making a written request to the office identified below at least 1 week prior to any meetings. All written correspondence concerning the proposed amendatory contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act of September 6, 1966 (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract no later than 30 days after the completed draft contract is declared to be available to the public. In the event little or no public interest is evidenced in the negotiations, as gauged by the response to this notice and local news releases or announcements, the availability of the proposed form of contract for public review and comment will not be formally publicized through the Federal Register or other media.

For further information about scheduled negotiations and a copy of the draft contract when available, please contact Mr. Steve Hvinden, Contracts and Repayment Branch, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, or telephone (702) 293-8651.

Dated: November 2, 1981.

Aldon D. Nielsen,

*Acting Assistant Commissioner of Reclamation.*

[FR Doc. 81-32526 Filed 11-9-81; 8:45 am]

BILLING CODE 4310-09-M

## Bureau of Land Management

### Grand Junction District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Grand Junction District Grazing Advisory Board will be held on Friday, December 11, 1981.

The meeting will begin at 9 a.m. in the conference room of the Bureau of Land Management Office at 50629 West Highway 6 and 24, Glenwood Springs, Colorado. The agenda for the meeting will include (1) Minutes of the previous meeting, (2) follow-up report on the Sunnyside Allotment, (3) discussion of BLM's new range improvement poilcy, (4) distribution of advisory board funds in Routt and Eagle Counties, (5) discussion of the proposed agreement on project funding with the Moab BLM District, (6) use of advisory board funds for predator control, (7) status of current range improvement projects and proposed fiscal year 82 work, (8) new project proposals and (9) arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:00 p.m., or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501, by December 8, 1981. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Further information on the meeting may be obtained at the above address or by calling (303) 243-6552.

David A. Jones,

*District Manager.*

[FR Doc. 81-32705 Filed 11-9-81; 11:36 am]

BILLING CODE 4310-84-M

## INTERSTATE COMMERCE COMMISSION

### Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

#### Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public

need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

**Volume No. OPY–2–212**

Decided: October 30, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 144953 (Sub-12), filed October 19, 1981. Applicant: MULLEN TRUCKING LTD., P.O. Box 8009, Station F, Calgary, Alberta, Canada T2J 4B4. Representative: John T. Wirth, 717 17th Street 2600, Denver, CO 80202, 303–892–6700. Transporting *mercer commodities,* between ports of entry on the international boundary line between the U.S. and Canada at points in WA, ID, MT and ND, on the one hand, and, on the other, points in MO, OH, IL, PA, IN and LA.

MC 146442 (Sub-2), filed October 19, 1981. Applicant: CLEARFIELD TRANSPORTATION COMPANY, INC., P.O. Box 313, Clinton, MO 64735. Representative: Mark J. Andrews, Suite 1100, 1660 L Street NW., Washington, DC 20036, 202–452–7400. Transporting *rubber products,* between points in the U.S., under continuing contract(s) with Hercules Tire & Rubber Co., Inc., of Findlay, OH.

MC 148183 (Sub-45), filed October 23, 1981. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004, (202) 737–2188. Transporting *machinery,* between points in Hall County, GA, on the one hand, and, on the other, points in VA, KY, WV, MD, DE, NJ, CT, MA, VT, NH, ME, RI, NY, PA, MN, IA, MO, AR, OK, KS, NE, SD, ND, MT, ID, WY, CO, NM, AZ, UT, NV, WA, OR, CA, and DC.

MC 154432, filed October 19, 1981. Applicant: FORTY EIGHT TRANSPORT, INC., 17135 Westview, South Holland, IL 60473. Representative: Philip A. Lee, 120 W. Madison, Chicago, IL 60602. Transporting *foundry facings, ground coal, petroleum pitch, coal tar pitch, bagging machines, iron wire, glass units and related commodities, ranges, ovens, cookers, stoves, water coolers, sound warning signals, horns, auto lamps and fixtures, electric controllers, bells, fire alarms, cleaning compounds and related commodities,* between points in the U.S. (except AK and HI).

MC 155893, filed October 20, 1981. Applicant: D & M CARTAGE, INC., P.O. Box 433, Brookings, SD 57006. Representative: A. J. Swanson, P.O. Box 1103, 226 North Phillips Ave., Sioux Falls, SD 57101, (605) 335–1777. Transporting (I) over irregular routes, *metal products,* between points in Brookings County, SD, on the one hand, and, on the other, points in the U.S.; and (II) over regular routes, *general commodities* (except classes A and B explosives), (1) between Brookings and Huron, SD, over U.S. Hwy 14, (2) between Sioux Falls and Desmet, SD: from Sioux Falls over U.S. Hwy 77 to junction SD Hwy 34, then over SD Hwy 34 to junction SD Hwy 25, then over SD Hwy 25 to Desmet, and return over the same route, (3) between Sioux Falls and Watertown, SD: from Sioux Falls over U.S. Hwy 77 to junction U.S. 212, then over U.S. Hwy 212 to Watertown, and return over the same route, (4) between Watertown and Arlington, SD, over U.S. Hwy 81, and (5) serving in connection with routes (1) through (4) above all intermediate points, and points in Minnehaha, Moody, Lake, Miner, Beadle, Kingsbury, Brookings, Hamlin, Deuel, Codington, and Grant Counties, SD, as off-route points in connection with carrier's otherwise authorized regular-route operations.

MC 158683, filed October 8, 1981. Applicant: JET CONCRETE, INC., d.b.a. ROCKET TRUCKING, 112 West Brooks, North Las Vegas, NV 89030. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701, 702–882–5649. Transporting *commodities in bulk,* between points in and south of Monterey, Kings, Tulare, and Inyo Counties, CA, Clark, Lincoln, Nye, Esmeralda, and White Pine Counties, NV, Mohave County, AZ, and Iron, Kane, Garfield, Millard, and Beaver Counties, UT.

**Volume No. OPY–2–213**

Decided: November 2, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 1743 (Sub-3), filed October 23, 1981. Applicant: WICKER TRUCKING, INC., 311 Porter Ave., Scottdale, PA 15683. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *electric power transformers, machinery, foundry supplies, and iron and steel articles,* between points in Westmoreland, Allegheny, and Fayette Counties, PA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 13313 (Sub-5), filed October 16, 1981. Applicant: CUMMINGS TRANSFER CO., 740 29th Ave. West, Albany, OR 97321. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, 503–226–3755. Transporting *petroleum, natural gas and their products, and chemicals and related products,* between points in OR, WA, and ID.

MC 94842 (Sub-9), filed October 23, 1981. Applicant: ROBERT CROCKET, INC., 102 Crescent Ave., Chelsea, MA 02150. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *those commodities which because of their size or weight require the use of special handling or equipment,* between points in the U.S.

MC 134783 (Sub-80), filed October 16, 1981. Applicant: DIRECT SERVICE, INC., P.O. Box 2481, Lubbock, TX 79408. Representative: Charles M. Williams, 1600 Sherman St. #665, Denver, CO 80203, 303–839–5856. Transporting (1) *chemical and related products,* and (2) *such commodities* as are dealt in or used by manufacturers and distributors

of toilet preparations, beauty aids, cosmetics, cleaning compounds, deodorizers, drugs, and store displays, between points in the U.S.

MC 139043 (Sub-6), filed October 23, 1981. Applicant: S A C TRANSPORTATION, INC., E. 4010 Main, Spokane, WA 99202. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055–3259, (206) 235–4730. Transporting *general commodities* (except classes A and B explosives), between points in CA, ID, MT, OR and WA.

MC 145773 (Sub-15), filed October 26, 1981. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except household goods, commodities in bulk, and explosives), between points in the U.S., under continuing contract(s) with A. O. Smith Corporation, of Milwaukee, WI.

MC 147932 (Sub-4), filed October 16, 1981. Applicant: COWEN TRUCK LINE, INC., Rt. 2, Perrysville, OH 44864. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, 614–464–4103. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of appliances and transportation equipment, between Akron, OH and points in Richland County, OH, on the one hand, and, on the other, points in the U.S.

MC 148412 (Sub-7), filed October 26, 1981. Applicant: GRIBBLE TRUCKING, INC., RD 3, Rockwood, PA. 15557. Representative: John Fullerton, 407 N. Front St., Harrisburg, PA 17101, (717) 236–9318. Transporting *iron and steel forgings* between points in the U.S., under continuing contract(s) with Meadville Forging Co., of Meadville, PA.

MC 149382 (Sub-1), filed October 23, 1981. Applicant: BURT TRANSPORT, INC., North Hwy 81, Geneva, NE 68361. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *such commodities* as are dealt in or used by agricultural equipment dealers, between points in the U.S., under contract(s) with (a) Adams Equipment, Inc., of Adams, NE, (b) William Chevrolet, Inc., of Pawnee City, NE, (c) Superior Implement, Inc., of Superior, NE, and (e) Stansbury Implement Co., Inc., of Humboldt, NE.

MC 149522 (Sub-2), filed October 19, 1981. Applicant: LARRY MUNGER, d.b.a. LARRY MUNGER ENTERPRISES, P.O. Box 25831, Salt Lake City, UT 84125. Representative: Larry Munger (same address as applicant), (801) 966–4702. Transporting *Mercer Commodities, clay, concrete, glass or stone products, contractors and construction materials, equipment, and supplies,* between points in WA, OR, CA, NV, UT, AZ, WY, MT, CO, NM, OK, TX, LA, MO, IL, ID, ND, SD, IA, NE, KS, OH, WI, MN, AR, AL, TN, and MI.

MC 151193 (Sub-18), filed October 16, 1981. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Ave., Avenel, NJ 07001. Representative: Michael A. Beam (same address as applicant), 201–499–3869. Transporting (1) *such commodities* as are dealt in and sold by supermarkets, and (2) *meats, packing house products, and meat byproducts,* between points in the U.S., under continuing contract(s) with Kenosha Beef International and Birchwood Meat and Provision Company, both of Kenosha, WI.

MC 152212, filed October 23, 1981. Applicant: SCENIC HYWAY TOURS, INC., P.O. Box 14315, San Francisco, CA 94114. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209, (703) 522–0900. Transporting *passengers and their baggage, in the same vehicle with passengers,* in special and charter operations, beginning and ending at points in San Francisco and Alameda Counties, CA, and extending to points in the U.S. (including AK but excluding HI).

MC 157973, filed October 23, 1981. Applicant: EDWARD D. OWENS, P.O. Box 25, Rice Lake, WI 54868. Representative: Harold O. Orlofske, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *such commodities* as are dealt in or used by (1) food service distributors, under continuing contract(s) with Upper Lake Foods, of Cloquet, MN, and (2) beer and wine wholesalers, under continuing contract(s) with Renerio Beverage, of Ashland, WI, between points in the U.S.

MC 158512, filed October 16, 1981. Applicant: NICHOLSON & SON EXPRESS, INC., 2037 West Farragut Ave., Chicago, IL 60625. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, 312–263–2306. Transporting *automotive supplies, pulp, paper and related products, and trailers,* between Chicago, IL, on the one hand, and, on the other, points in IL, IN, IA, MI, and WI.

MC 158802, filed October 13, 1981. Applicant: RICHARD HANDS, d.b.a. ASSOCIATED SHIPPERS SERVICE, P.O. Box 149, Newfoundland, NJ 07435. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, 212–263–2078. Transporting *those commodities which because of their size or weight require the use of special handling or equipment, metal products, stone products, machinery, machinery parts, pipe, and air conditioners,* between points in the U.S. (except AK and HI).

Volume No. OPY–5–194

Decided: November 2, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 113119 (Sub-16), filed October 20, 1981. Applicant: C.S.I., INC., d.b.a. CONTRACT SERVICE, INC., Trewingtown Rd., Colmar, PA 18915. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, (717) 562–1202. Transporting *clay, concrete, glass or stone products,* between points in Addison and Rutland Counties, VT, and York County, PA, on the one hand, and, on the other, points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN to the international boundary line between the United States and Canada.

MC 119399 (Sub-150), filed October 26, 1981. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Blvd., Joplin, MO 64802. Representative: Keith R. McCoy (same address as applicant), 417–623–5229. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 136899 (Sub-58), filed October 23, 1981. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 637, Richland Center, WI 53581. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703, 608–256–7444. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 142288 (Sub-10), filed October 23, 1981. Applicant: HAMILTON TRUCKING COMPANY OF OKLAHOMA, INC., 12612 E. Admiral, Tulsa, OK 74116. Representative: Michael H. Lennox, 531 N. Portland, P.O. Box 75613, Oklahoma City, OK 73147, 405–943–2722. Transporting *commodities in bulk,* between points in OK, on the one hand, and, on the other, points in

AL, AR, CA, CO, DE, FL, GA, IA, ID, IL, IN, KS, LA, MA, MD, ME, MN, MO, MS, MT, NJ, NM, NY, OH, PA, SD, TX, VA, WA, and WV.

MC 143699 (Sub-8), filed October 26, 1981. Applicant: QUALITY CONTRACT CARRIERS, INC., 1009 West Edgewood Ave., Indianapolis, IN 46217. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *such merchandise* as is dealt in or used by wholesale and retail grocery business houses, between points in the U.S., under continuing contract(s) with The Kroger Co., of Cincinnati, OH.

MC 145429 (Sub-4), filed October 23, 1981. Applicant: MEL'S EXPRESS LTD., 90 Dissette St., P.O. Box 479, Bradford, Ontario Canada L0G 1C0. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. Transporting *toys and toy parts* between points in Erie and Orleans Counties, NY, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada.

MC 147649 (Sub-4), filed October 23, 1981. Applicant: AMERICAN CONTAINER TRANSPORT, INC., 7350 West Marginal Way SW., Seattle, WA 98106. Representative: James T. Johnson, 1610 IMB Bldg., Seattle, WA 98101, 206–624–2832. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in WA, OR, CA, UT, and MT.

MC 148569 (Sub-8), filed October 23, 1981. Applicant: JAMES BRUCE LEE AND STANLEY LEE d.b.a LEE CONTRACT CARRIERS, P.O. Box 48, Pontiac, IL 61764. Representative: Edward F. Stanula, 900 East 612nd St., South Holland, IL 60473, 312–596–8575. Transporting *lawn and weed equipment and metal products,* between points in Livingston County, IL, on the one hand, and, on the other, points in the U.S.

MC 148899 (Sub-4), filed October 23, 1981. Applicant: BARLOW TRUCK LINES, INC., Box 224, Faucett, MO 64448. Representative: Patricia F. Scott, 20 East Franklin, P.O. Box 258, Liberty, MO 64068–0258, (816) 781–6000. Transporting *food and related products* between points in Orange County, CA, and Buchanan County, MO, on the one hand, and, on the other, those points in the U.S. in and east of AR, IA, LA, MN, and MO.

MC 149368 filed October 23, 1981. Applicant: MILLER'S SPECIAL DELIVERY SERVICE, 61390 Bremen Highway, Mishawaka, IN 46544. Representative: Paul D. Borghesani, 300 Communicana Bldg., 421 So. Second St., Elkhart, IN 46516, 219–293–3597. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk), between Chicago, IL, points in IN, and those in MI on and south of MI State Hwy 46 on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 151039 (Sub-1), filed October 26, 1981. Applicant: CABARRUS CONSOLIDATING AND MANAGEMENT COMPANY, P.O. Box 1212, Concord, NC 28025. Representative: John N. Fountain, P.O. Box 2246, Raleigh, NC 27602, 919–828–0731. Transporting *textiles and related commodities,* between points in the U.S.

MC 152509 (Sub-17), filed October 23, 1981. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant), (216) 566–2677. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Richway, Inc., a division of Federated Dept. Stores, of Atlanta, GA.

MC 152509 (Sub-18), filed October 23, 1981. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant), (216) 566–2677. Transporting (1) *paper, pulp and related products,* and (2) *lumber and wood products,* between points in the U.S., under continuing contract(s) with Weyerhaeuser Company of Tacoma, WA.

MC 153788, filed October 26, 1981. Applicant: G & G COMPANY, INC., P.O. Box 5753, Longview, TX 75608. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *sand, rock and gravel* between points in Choctaw and McCurtain Counties, OK, on the one hand, and, on the other, those points in TX on and east of Interstate Hwy 35.

MC 153829 (Sub-1), filed October 23, 1981. Applicant: UNITED SHIPPING COMPANY, P.O. Box 21186, St. Paul, MN 55121. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102, (612) 227–7731. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in the U.S.

MC 153929 (Sub-1), filed October 22, 1981. Applicant: MONROE LEASING COMPANY, INC., 3434 Akron-Cleveland Road, Cuyahoga Falls, OH 43223. Representative: Andrew Jay Burkholder, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting (1) *transportation equipment,* and (2) *rubber and plastic products,* between points in the U.S., under continuing contract(s) with North Gateway Tire Co., Inc., of Medina, OH.

MC 156498 (Sub-1), filed October 16, 1981. Applicant: MORRIS W. VICE, d.b.a. ROYAL GREAT LAKES TOURS, 2008 West Goguac Street, Battle Creek, MI 48015. Representative: William R. Ralls, 118 West Ottawa St., Lansing, MI 48933, 517–372–6622. To engage in operations, in interstate or foreign commerce as a *broker,* at Battle Creek, MI, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in charter or special operations, between Battle Creek, MI, on the one hand, and on the other, points in the U.S.

MC 157689, filed October 16, 1981. Applicant: T & L EXPRESS, LTD., 1211 Majestic Way, Webster, NY 14580. Representative: John F. O'DONNELL, 60 Adams St., P.O. Box 238, Milton, MA 02187, (617) 696–7610. Transporting (1) *food and related products,* (2) *pulp, paper, and related products,* (3) *rubber and plastic products,* (4) *chemicals and related products,* and (5) *metal products,* between points in CT, DE, IA, IL, IN, KY, MA, MD, MI, MO, NJ, NY, OH, PA, RI, VA, WI, WV, and DC.

MC 158879, filed October 19, 1981. Applicant: SAIN TRANSPORT, A Division of Sain Enterprises, Inc., 115 East 2nd Street, Freeport, TX 77541. Representative: Donald J. Sain (same address as applicant), (713) 233–2608. Transporting (1) *clay, concrete, glass or stone products,* (2) *metal products,* (3) *rubber and plastic products,* and (4) *lumber and wood products,* between points in AR, AZ, CA, CO, ID, IL, KS, LA, MO, MT, NE, ND, NM, NV, OK, OR, TX, UT, and WY.

MC 158919, filed October 21, 1981. Applicant: PARWEL INDUSTRIES, INC., 473 Milverton Blvd., Toronto, Ontario, Canada M4C 1X4. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, 703–522–0900. To operate as a *broker,* at Boston, MA, in arranging for the transportation of *passengers and their baggage,* between points in the U.S.

Note.—Applicant also intends to operate at Toronto, Ontario, Canada, a point beyond the jurisdiction of the Interstate Commerce Commission.

MC 158928, filed October 22, 1981. Applicant: D. J. WALTERS

TRANSPORT CO., P.O. Box 416, Kearney, NE 68847. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *petroleum products* between points in the U.S., under continuing contract(s) with Spohn Oil Company, J & D Oil Co., and Landmark of Nebraska, Inc., all of Kearney, NE.

MC 158929, filed October 21, 1981. Applicant: RICHARD P. KOVACS, d.b.a. RICHARD P. KOVACS LIMOUSINE SERVICE, 70½ West St., Danbury, CT 06810. Representative: Richard P. Kovacs (same address as applicant), (203) 748–0550. Transporting *passengers and their baggage,* in special operations, between points in CT, on the one hand, and, on the other, the John F. Kennedy Airport and La Guardia Airport at New York, NY, and the Newark International Airport at Newark, NJ.

Volume No. OPY–5–195

Decided: November 3, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 41098 (Sub-68), filed October 27, 1981. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K Street N.W., Washington, DC 20006, 202–833–8884. Transporting *such commodities* as are dealt in by retail stores between points in King County, WA on the one hand, and, on the other, points in CO, IA, MN, MO, NE, OK, TN, TX and WI.

MC 56679 (Sub-181), filed October 27, 1981. Applicant: BROWN TRANSPORT CORP., 352 University Ave. SW., Atlanta, GA 30310. Representative: Leonard S. Cassell (same address as applicant), 404–752–5151. Transporting *general commodities* (except classes A and B explosives), between points in WA, OR, NV, ID, WY, UT, MT, ND, SD, ME, NH, VT, CT, RI, Upper Peninsula MI, Dallas, TX, Oklahoma City, OK, Kansas City, MO, and Omaha, NE.

MC 107478 (Sub-91), filed September 22, 1981. This application was published initially in the Federal Register on October 9, 1981. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, 1791 Westchester Dr., High Point, NC 27261. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20014, (301) 986–1410. Transporting *general commodities* (except classes A and B explosives), between the facilities of Xerox Corporation at points in the U.S., on the one hand, and, on the other, points in the U.S. This application is republished to show the complete authority requested by applicant.

MC 112989 (Sub-151), filed October 28, 1981. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy. 99 So., Eugene, OR 97405. Representative: John T. Morgans (same address as applicant), (503) 747–1283. Transporting *containers and container closures* between points in the U.S.

MC 134548 (Sub-11), filed October 26, 1981. Applicant: ZENITH TRANSPORT, LTD., 2381 Rogers Ave., Coquitlam, B.C., Canada V3K 5Y2. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104, (206) 622–3220. Transporting *pulp, paper and related products* between ports of entry on the international boundary line between the U.S. and Canada in WA, ID, and MT, on the one hand, and, on the other, points in WA, OR, CA, ID, MT, WY, CO, UT, NM, AZ, and NV.

MC 145129 (Sub-8), filed October 9, 1981. Applicant: WHITAKER TRANSPORTATION COMPANY, INC., 2909 South Hickory St., Chattanooga, TN 37407. Representative: M. C. Ellis, % Chattanooga Freight Bureau, Inc., 1001 Market St., Chattanooga, TN 37402, (615) 756–3620. Transporting *glass containers,* (1) between points in FL, IL, KS, MD, MS, MO, OH, PA, TN, TX, and WV, and (2) between points in (1) above on the one hand, and, on the other, points in AL, GA, KY, MS, NC, SC, TN, and VA.

MC 145129 (Sub-9), filed October 16, 1981. Applicant: WHITAKER TRANSPORTATION COMPANY, INC., 2909 South Hickory St., Chattanooga, TN 37407. Representative: M. C. Ellis, % Chattanooga Freight Bureau, Inc., 1001 Market St., Chattanooga, TN 37402, (615) 756–3620. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in AL, GA, and TN, on the one hand, and, on the other, points in AL, GA, and TN.

MC 146449 (Sub-3), filed October 28, 1981. Applicant: ALL CITIES TRANSFER, INC., 1567 East Hamilton Ave., East Point, GA 30344. Representative: William J. McCann (same address as applicant), (404) 768–7780. Transporting *industrial and plastic containers,* between points in Clayton County, GA and Dallas County, TX, on the one hand, and, on the other, points in the U.S.

MC 151748 (Sub-2), filed October 23, 1981. Applicant: GRAPHIC ARTS PUBLISHING CO., INC., d.b.a. GAP TRUCKING, 2285 Warm Springs Ave., Boise, ID 83706. Representative: Donald A. Ericson, 708 Old National Bank Bldg., Spokane, WA 99201, 509–455–9200. Transporting *office furniture, materials, supplies, and equipment and related products* between points in the U.S. under continuing contract(s) with Equipment Distributors, Inc., of Boise, ID.

MC 155409, filed October 26, 1981. Applicant: MICHALETZ TRUCKING, INC., 3302 Park Drive, Owatonna, MN 55060. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, 612–937–8500. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. under continuing contract(s) with Brown Printing Company, Inc., of Waseca, MN.

MC 156079 (Sub-5), filed October 28, 1981. Applicant: CIRCLE "C" CARRIERS, INC., P.O. Box 6158, Little Rock, AR 72216. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., 315 Union St., Nashville, TN 37201, (615) 244–2926. Transporting *food and related products,* between points in White County, AR, and Lake County, IN, on the one hand, and on the other, points in the U.S.

MC 157309, filed October 26, 1981. Applicant: WALTER C. TECHMEIER, 620 N. Michigan St., De Pere, WI 54115. Representative: Walter C. Techmeier (same as applicant), 414–337–0103. Transporting *such commodities* as are dealt in, or used by, truck, trailer, and diesel engine repair shops, between points in the U.S. under continuing contract(s) with Diesel Specialists, Inc. and Green Bay Maintenance, Inc. both of Green Bay, WI.

MC 158589, filed October 1, 1981. Applicant: RAINBOW MOTOR LINES, INC., 220 River Drive, Lake Hiawatha, NJ 07034. Representative: Peter Scrivani (same address as applicant), (201) 334–1939. Transporting *olives* between points in the U.S., under continuing contract(s) with Tee-Pee Olive, Inc., of Scarsdale, NY.

MC 158619, filed October 5, 1981. Applicant: JOHN ROSS EXPRESS, INC., P.O. Box 17643, El Paso, TX 79917. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102, (817) 335–2505. Transporting (1) *building materials* (except in bulk), and (2) *construction machinery, equipment, and supplies,* between points in El Paso County, TX, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, LA, MO, NV, NM, NC, OK, OR, SC, TN, TX, UT, VA, and MS.

MC 158739, filed October 28, 1981. Applicant: JIM RUSHING TRUCKING, INC., RT # 4 P.O. Box 177, Union City, TN 38261. Representative: Ronald M.

Lowell, 618 United American Bank Bldg., Nashville, TN, 615–244–8100. Transporting *commodities in bulk* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Kinkead Industries, Inc. of Downers Grove, IL.

MC 158759, filed October 13, 1981. Applicant: TRANSTEEL, INC., 1452 Hawthorne St., Grosse Pointe Woods, MI 48236. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167, (313) 349–3980. Transporting (1) *automobile parts*, (2) *materials* used in the manufacture and production of motor vehicles, and (3) *such commodities* as are dealt in or used by manufacturers and dealers of agricultural and construction equipment, between points in MI, OH, PA, IN, IL, WI, MO, and KY.

MC 158968, filed October 26, 1981. Applicant: STERLING TOURS, INC., d.b.a. PLAZA CASINO TOURS, 207 Powell St., Suite 200, San Francisco, CA 94102. Representative: John Paul Fischer, 256 Montgomery St., San Francisco, CA 94104, (415) 421–6743. To engage in operations, as a *broker* at San Francisco, Oakland, and San Jose, CA, in arranging for the transportation of *passengers and their baggage*, in special and charter operations, beginning and ending at points in CA, and extending to points in the U.S.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 81–32473 Filed 11–9–81 8:45 am]

BILLING CODE 7035–01–M

---

[Volume No. OPY–5–196]

## Motor Carriers; Permanent Authority Decisions; Decision–Notice

Decided: November 3, 1981.

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the commission's policy of simplifying grants of operating authority.

### Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

*Secretary.*

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

MC 158958, filed October 26, 1981. Applicant: JOE EVANS EXPRESS, 4623 Ebony St., Orlando, FL 32805. Representative: Hughan R. H. Smith, 26 Kenwood Pl., Lawrence, MA 01841, 617–241–8296. 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.

MC 158989, filed October 26, 1981. Applicant: EASTERN GILLETTE, INC., 20 Paulina St., Somerville, MA 02144. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, (212) 239–4610. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

[FR Doc. 81–32474 Filed 11–9–81; 8:45 am]

BILLING CODE 7035–01–M

---

[Volume No. 194]

## Motor Carriers: Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: November 3, 1981.

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 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

### Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority,

compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

**Agatha L. Mergenovich,**

*Secretary.*

MC 9655 (Sub-6)X, filed October 23, 1981. Applicant: J. R. BUTLER, INC., 5950 Fisher Rd., P.O. Box 487, East Syracuse, NY 13057. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666. Sub-4 certificate, Broaden (1) general commodities (exceptions) to "general commodities (except classes A and B explosives); (2) expand Buffalo, Rochester, Syracuse, Utica, Elmira, and Binghamton to Erie, Monroe, Onondaga, Oneida, Chemung, and Broome Counties, NY; and (3) remove ex-rail restriction.

MC 42326 (Sub-1)X, filed October 19, 1981. Applicant: ROLAND D. SELLERS, d.b.a. SELLERS TRUCK LINE, RFD #2, Box 9, Salina, KS 67401. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. Lead certificate. Broaden regular routes (1) general commodities (with exeptions) to "general commodities (except classes A and B explosives and household goods as defined by the Commission); (2) authorize service at all intermediate points (3) off route points of Minneapolis, Delphos and Lincoln to Ottawa and Lincoln Counties, KS.

MC 115554 (Sub-42)X, filed October 21, 1981. Applicant: HEARTLAND EXPRESS, INC. OF IOWA, P.O. Box 89B, R.R. #6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Lead and Subs 3, 5, 6, 7, 8, 10, 11, 13G, 14, 15F, 16F, 19F, 23F, 24F, 25F, 27F,28F, 29F, 30F, 31F, 32F, 35F, and 36F. Broaden (1) to (a) "food and related products" from malt beverages Sub 3 and Sub 5; from feed lead and Sub 5; from feedstock, bakery supplies, peaches, and watermelons Sub 5; (b) "lumber and wood products and metal products" from fencing materials and iron and steel articles in lead and from fencing Sub 5; (c) "textile mill products" from binder twine and wool and twine Sub 5; (d) "petroleum, natural gas and their products" from petroleum products Sub 5; (e) "machinery and metal products" from pumps, windmills, windmill towers, iron pipe an fittings and pump parts lead; chicken and pig brooders poultry nests, poultry and livestock feeders, water tanks, tank heaters, and agricultural and poultry hand utensils, hardware and agricultural machinery and parts thereof Sub 5, heat exchangers and equalizers for air, gas, or liquid and machinery and equipment therefor and parts, materials, equipment and supplies therefor Sub 14; (f) "farm products and such commodities as are dealt in by the agricultural industry" from agricultrual commodities Sub 5; (g) "food and related products and waste or scrap materials not identified by industry producing" from hides and scrap metal lead; hides and rendering plant products Sub 5; (h) "metal products" from wire and wire products Sub 3; iron and steel articles and materials, equipment and supplies used in the manufacture and processing thereof Sub 7; wire cases Sub 11; and containers Sub 33F; (i) "waste or scrap materials not identified by producing industry" from junk Sub 5; (j) "farm products" from livestock Sub 5 and lead; nursery stock and supplies lead; seeds, and soy beans Sub 5; (k) "chemicals and related products and containers therefor" from acid and empty acid carboys lead; (l) "chemicals and related products" from fertilizer, tankage and paint lead; and agricultural and industrial pesticides and chemicals, Sub 24F; (m) "coal and coal products" from coal lead and Sub 5; (n) "petroleum, natural gas and their products and chemicals and related products" from lubricating oil and cleaners' solvent lead; (o) "pulp, paper and related products" from wall paper lead; and insulation materials Sub 36F; (p) "furniture and fixtures" from furniture and new and old furniture and commodities such as are dealt in by retail furniture stores Sub 5; (q) "machinery" from agricultrual implements and parts lead, and Sub 3; refrigerators, refrigeration equipment and parts and materials therefor Sub 3; farm equipment and parts thereof, bakery supplies and equipment, and washing machines and parts therefor and materials used in the manufacture thereof in Sub 5; refrigerators, refrigeration, cooling, heating and electrical equipment, and appliances, Subs 8, 10, 13G, and 15F; electric motors, grinders, buffers, dental lathes, dust collectors, and pedestals, parts, accessories and attachments and materials, equipment, and supplies used in the manufacture and distribution thereof Subs 16F and 29F; electric motors, electric generators and parts therefor Sub 25F; gas and electrical appliances, parts therefor and materials, equipment and supplies used in the manufacture, distribution and repair thereof Subs 19F and 27F; electric motors Sub 28F; telephones, telephone sets and telephone equipment and materials, equipment, and supplies used in the manufacture, distribution, installation, or operation thereof Subs 23F, 31F and 35F; refrigeration equipment, electrical equipment and electrical appliances, materials and supplies used in the manufacture, repair and distribution thereof Sub 30F; (2) authorize service at all intermediate points in regular-route authorities lead and Sub 5; (3) expand off-route points to county-wide authority: lead, Johnson, Muscatine, Cedar, Linn, Iowa and Washington Counties, IA (within 25 miles of Iowa City, IA); Sub 5, Lewis (Maywood and Monticello) and Shelby (Leonard) Counties, MO; Davis, Monroe, Wapello, Appanoose and Van Buren Counties, IA and Schuyler and Scotland Counties, MO (within 15 miles of Bloomfield, IA); Wayne, Decatur, Clarke, Lucas, Monroe, Appanoose, Marion and Warren Counties, IA (within 30 miles of Chariton, IA); (4) irregular-route, lead, Johnson County, IA (Iowa City), Lake County, IN (East Chicago), De Kalb, Winnebago, and Rock Island Counties, IL (Sanwich, Rockford, Rock Island, Moline), Cedar and Linn Counties, IA (Tipton, Stanwood, London, Ely and Mechanicsville), La Salle County, IL (Ottawa and Marseilles); Rock Island County, IL (Coal Valley), Cedar County, IA (Tipton, IA) Clinton, Cedar, Johnson, Muscatine, Jones, Jackson, Dubuque, Delaware, and Linn Counties, IA (DeWitt, Clinton, Mechanicsville, Solon, West Branch, Wilton Junction, Tipton, Monticello, Anamosa, Maquoketa, Walford, Bennett, Iowa City, Oxford, Farley, Earlville, Manchester, Central City, and Cascade), Lake County, IN (Hammond), Cedar County, IA (Tipton), Linn, Clinton, Louisa, Muscatine, Scott, Jackson, Cedar, Jones, Washington, and Johnson Counties, IA and Rock Island County, IL (Tipton and points within 35 miles thereof), Buchanan, Linn, Benton, Tama, Poweshiek, Wapello, Mahaska, Keokuk, Jefferson, Henry, Louisa, Muscatine, Scott, Clinton, Delaware, Black Hawk, Cedar, Jones, Washington, Johnson, and Iowa Counties, IA (Oxford and points within 50 miles thereof), Lake County, IN (East Chicago, Gary, Hammon and Whiting), Johnson, Jones, Muscatine, Louisa, Cedar, Keokuk, Benton, Linn, Iowa and Washington Counties, IA (Iowa City and points within 25 miles thereof), Bureau County, IL (Princeton), Will County, IL (Joliet), Kane County, IL (Aurora), Cedar County, IA (Durant); Sub 3, Iowa County, IA (Amana), Linn County, IA (Cedar Rapids), Hancock County, IL (Warsaw), Whiteside County, IL (Sterling), Johnson County, IA (Oxford), Tazewell, Rock Island, and La Salle Counties, IL (Morton, Rock Island, and

Streator); Sub 5, Fulton, Rock Island and Whiteside Counties, IL (Canton, Moline, East Moline, Rock Falls, and Rock Island), Marion, Lucas, Wayne, Appanoose, Davis, Wapello, Monroe, Keokuk and Mahaska Counties, IA (Albia and points within 25 miles thereof), Knox County, IL (Galesburg), Story, Monroe, Poweshiek, Jasper, Wapello, Appanoose, Wayne, Keokuk, Iowa, Marion, and Mahaska Counties, IA (Ames, Colfax, Grinnell, Centerville, Corydon, Oskaloosa), Lucas, Muscatine, Cedar, Jones, Linn, Buchanan, Johnson, Chickasaw, Floyd, Kossuth, Woodbury, Monona, Ida, Palo Alto, Delaware, Fayette, Bremer, Butler, Cerro Gordo, Hancock, Humboldt, Pocahontas, Sac, Crawford, Shelby, Harrison, Pottawattamie, Mills, Fremont, Page, Taylor, Ringgold, Decatur, Wayne, Appanoose, Davis, Van Buren, Jackson, Scott, Lee, Des Moines, Henry, Jefferson, Wapello, Monroe, Clarke, Union, Adams, Montgomery, Cass, Adair, Madison, Warren, Marion, Mahaska, Keokuk, Washington, Louisa, Johnson, Iowa, Poweshiek, Jasper, Polk, Dallas, Guthrie, Audubon, Carroll, Greene, Boone, Story, Marshall, Tama, Benton, Black Hawk, Grundy, Hardin, Buena Vista, Hamilton, Webster, Calhoun, Wright, Franklin, and Dubuque Counties, IA (Chariton and points in IA within 150 miles thereof), Wapello County, IA (Eddyville), Knox County, IL (Galesburg), Mahaska, Monroe, Wapello, Iowa, Marion, Keokuk, Jasper, and Poweshiek Counties, IA (Oskaloosa, IA and points within 25 miles thereof), Monroe County, IA (Albia), Adams County, IL (Quincy), Van Buren, Davis, Lucas, and Wayne Counties, IA (Koesauqua, Bloomfield, Chariton, and Corydon, IA); Rock Island and Mercer Counties, IL (Rock Island and Keithsburg), Howell and Oregon Counties, MO (Koshkonong, MO and points within 10 miles thereof), Monroe, Wapello, Keokuk, Appanoose, Davis, Mahaska, Marion, Lucas and Wayne Counties, IA (Albia and points within 25 miles thereof), Henderson and Warren Counties, IL (Monmouth and points within 10 miles thereof), Lee County, IA (Fort Madison); Wapello County, IA (Ottumwa), Jefferson County, IA (Fairfield), Stark, Crawford, and Trumbull Counties, OH (Alliance, Galion, and Warren), Monroe, Polk, Warren, Madison, and Dallas Counties, IA (Albia and points within 12 miles of the central post office, Des Moines); Sub 6, Porter County, IN (Burns Harbor, IN); Sub 8, Iowa County, IA (Amana); Sub 11, Linn County, IA (Cedar Rapids); Sub 15F, Fond Du Lac County, WI, White County, AR, Calhoun County, MI, Chattanooga, TN, and Hopkins County, KY (Ripon, WI, Searcy, AR, Albion, MI, Chattanooga, TN, and Madisonville, KY); Sub 16F, Lowndes County, MS (Columbus), Sebastian County, AR (Fort Smith); Sub 23F, Sedgwick County, KS (Goddard), Sub 24F, Freeborn County, MN (Albert Lea) and Page County, IA (Shenandoah); Sub 25F, Henderson and Warren Counties, TN (Lexington and McMinnville); Sub 28F, De Kalb County, IL (De Kalb), Rutherford County, TN (Murfreesboro); Sub 29F, Lowndes County, MS (Columbus), Sebastian County, AR (Fort Smith); Sub 30F, Iowa County, IA (Amana); Sub 31F, Sedgwick County, KS (Goddard); Sub 32F, Washington County, AL (McIntosh), East Baton Rouge and West Baton Rouge Parishes, LA (Baton Rouge, Port Allen and St. Gabriel); and Sub 36F, Bell County, TX (Rogers); (5) remove: (a) facilities restrictions in Subs-6, 7, 15F, 19F, 23F, 24F, 25F, 30F, 31F, and 33F; (b) exceptions in the general commodity authority description "except those of unusual value", "commodities requiring special equipment and those injurious or contaminating to other lading", Subs 5, and 6; (c) limitations "in truckload lots", "to pick-up only" and "in containers"; (d) the exception "commodities which because of size or weight require the use of special equipment"; (e) originating at and destined to restrictions, Subs-6, 7, 14, 23F, 29F, 31F and 35F.

MC 117565 (Sub-105)X, filed October 22, 1981. Applicant: MOTOR SERVICE COMPANY, INC., P.O. Box 448, Coshocton, OH 43012. Representative; Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20879. Subs-29, 69, 70, 82, 88 and 101 certificates and MC–135701 Sub-1 permit. Broaden (1) from (a) motor homes, in truckaway service, and camper coaches to "transportation equipment", (Sub 29); (b) steel shot, grit, and machines and parts of machines used for the application of steel shot and grit, and machines used for the application of steel shot and grit, to "metal products and Machinery", (Sub 59); (c) polystyrene articles (except in bulk) to "chemicals and related products, and rubber and plastic products", (Sub 70); (d) plywood and plywood panels to "lumber and wood products", (Sub 82); (e) bins, dryers, tanks, air moving equipment, heaters, vaporizers, ladders, steps, and hardware, supplies, parts and accessories used in the installation, operation, and maintenance thereof, except those commodities which are dealt in by retail discount stores to "metal products, machinery, and lumber and wood products", (Sub 88); (f) roof cement, waterproofing compounds, paint, caulking, adhesives, sealants, and coatings to "petroleum or coal products and chemicals or related products", (Sub 101); (g) remove the except commodities in bulk exception (Sub 1 Permit); (2) to radial authority (subs–69, 70, 82, and 88); (3) to between points in the U.S. under continuing contract(s) with shipper (Sub-1 permit); (4) Adrian to Lenawee County, MI, (Sub 69); Troy to Miami County, OH, (Sub 70); facilities at or near New Orleans, LA to Orleans, Lafourche, Jefferson, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany and Tangipahoa Parishes, LA, (Sub 82); and Marengo to McHenry County, IL (Sub-88).

MC 134064 (Sub-54)X, filed September 11, 1981, previously, noticed in the Federal Register of October 1, 1981, republished as follows: Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainesville, GA 30505. Representative: Charles M. Williams, 665 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Applicant seeks to broaden citywide authority to countywide authority in Sub-No. 42 as follows: Bergen, Hudson, Passaic, Middlesex, Essex, and Union Counties, NJ, and Richmond, Kings, Queens, New York, and Bronx Counties, NY, from Jersey City, NJ.

MC 141737 (Sub-2)X, filed October 23, 1981. Applicant: WALKER FREIGHT LINE, INC., P.O. Box 241, Black Hawk, SD 57718. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Lead certificate: (1) remove the exception "those of unusual value" from general commodities (with exceptions); (2) authorize service on all intermediate points; and (3) expand off-route point Chadron to Dawes County, NE.

MC 144606 (Sub-23)X, filed October 16, 1981. Applicant: DUNCAN & SON LINES, INC., 714 East Baseline Rd., Buckeye, AZ 85326. Representative: Donald W. Powell, 4150 North 12th St., Phoenix, AZ 85014. Subs 2, 3F, 9F, 11F, 17F, 18F and 19 certificates: (A) broaden (1) from (a) Sub 2, steel and plastic pipe and guard rails to "metal products and rubber and plastic products"; (b) Sub 3F, expanded plastic bottles to "rubber and plastic products"; (c) Sub 9F, expanded plastic bottles, plastic articles plastic bags, and components, to "rubber and plastic products"; non-alcoholic beverages and canned goods and foodstuffs to "food and related products"; building materials, cement, lime, roof and roofing materials, wallboard and sheetrock, to "building materials and supplies"; (d) Sub 11F, iron and steel articles to "metal

products"; and (e) Sub 18F, plastic and plastic articles to "rubber and plastic products"; (2) to county-wide authority: (a) Sub 2, Maricopa County, AZ (facilities—West Van Buren, Phoenix); (b) Subs 3 and 9 (part 5) Maricopa County, AZ (Phoenix); (c) Sub 9 (part 4b), El Paso County, TX (El Paso); (d) Sub 11, Maricopa County, AZ (facilities—Phoenix); (e) Sub 17, Maricopa County, AZ (Buckeye) and Los Angeles County, CA (Los Angeles); (f) Sub 18, Los Angeles County, CA (Monrovia); and (g) Sub 19, Adams, Arapahoe, Jefferson, and Denver Counties, CO (Denver); Davis County, UT (Salt Lake City); and Bernalillo County, NM (Albuquerque); (B) remove the restriction prohibiting the transportation of specified and in bulk commodities from, to or between named points, Sub 9; and (C) broaden to radial authority, Subs 2, 3, 9 (parts 3, 4b, and 5), 11 and 18.

MC 144701 (Sub-3)X, filed October 23, 1981. Applicant: BLACKSHEAR REFRIGERATED TRANSPORT, INC., 1178 Wright Ave., Camden, NJ 08102. Representative: James H. Sweeney, 468 Kentucky Ave., Williamstown, NJ 08094.MC–110752 and MC–144701 (Sub-1): (1) Broaden to (a) "food and related products" (part 1 regular route), and "such commodities requiring temperature control, and materials, equipment and supplies used in the manufacture and distribution thereof" (part 2 regular route) from frest meats, eggs, butter, cheese, and other articles requiring refrigerated equipment and animal glue (part 1), and from such commodities as require refrigeration, and empty containers (MC–110752) (part 2); (b) "food and related products, and materials, equipment and supplies used in the manufacture and distribution thereof", from (irregular route) frozen fruits and vegetables, damaged or rejected shipments therefor, fish ice cream, etc., packing-house products and empty containers therefor, and feed and foodstuffs (exceptions) (both authorities); (2) authorize service at all intermediate points (MC–110752, regular route); (3) expand Camden, Trenton, New Brunswick, and Newark, NJ, and points in NJ within 25 miles of Newark, to Camden, Mercer, Middlesex, Essex, Bergen, Passaic, Morris, Hudson, Union, Somerset, and Monmouth Counties, NJ; points in PA and NJ within 35 miles of Philadelphia, PA, to Berks, Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton, and Philadelphia Counties, PA, and Atlantic, Burlington, Camden, Cumberland, Glocester, Hunterdon, Mercer, Monmouth, Middlesex, Ocean, Salem and Somerset Counties, NJ; Frederick, Smithburg, and Hagerstown to Frederick and Washington Counties, MD; Grozet to Albermarle County, Va; Island Pond to Essex Counties, VT; Columbia to Richland County, SC; Bridgeport to Fairfield County, CT; Haddonfield to Camden County, NJ; Vineland to Cumberland County, NJ; Columbia to Lancaster County, PA; and Chambersburg to Franklin County, PA (MC–110752); (4) to radial (both authorities).

MC 144757 (Sub-3)X, filed October 16, 1981. Applicant: AIR FREIGHT, INC., Box No. 2, Casper, WY 82602. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Sub 2F (1) remove all exceptions to its general commodities authority except classes A & B explosives, (2) remove ex-air restriction.

[FR Doc. 81–32475 Filed 11–9–81 8:45 am]
BILLING CODE 7035–01–M

---

[Finance Docket No. 29737]

## Railroad Abandonment; Burlington Northern Railroad Co.; Exemption; Abandonment of Certain Trackage in City of Minneapolis, MN

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Commission exempts the abandonment of a 3.6 mile segment of rail line of Burlington Northern Railroad Company, in Minneapolis, MN, from the rquirements of prior approval under 49 U.S.C. 10903.

**DATES:** Exemption effective November 10, 1981. Petitions for reconsideration must be filed on or before November 30, 1981.

**ADDRESSES:** Send pleading to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th St. and Constitution Ave., Washington, D.C. 20423.

(2) Petitioner's representative: Douglas J. Babb, Law Department, Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, MN 55101.

Pleadings should refer to Finance Docket No. 29737.

**FOR FURTHER INFORMATION CONTACT:** Ellen D. Hanson, (202) 275–7245.

**SUPPLEMENTARY INFORMATION:** Copies of the complete decision may be obtained from Room 2227 at the Commission's Headquarters at 12th and Constitution Avenue, NW., Washington, D.C., 20423, or by calling the Commission's toll-free number for copies at 800–424–5403. The decision is being served concurrently with this publication.

Dated: November 2, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 81–32476 Filed 11–9–81; 8:45 am]
BILLING CODE 7035–01–M

---

[Finance Docket No. 29746]

## Rail Carriers; VIA Rail Canada Inc.; Exemption; Discontinuance of Passenger Service

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of Exemption.

**SUMMARY:** The Commission exempt from the requirement of prior approval under Chapter 109 of Title 49, United States Code, the discontinuance by VIA Rail Canada, Inc. of that portion of its passenger train operations between Halifax, Nova Scotia and Montreal, Quebec which are conducted within Maine.

**DATES:** This exemption was effective on the date the Commission served its decision November 10, 1981. This exemption may be exercised on or after November 15, 1981. Petitions to reopen must be filed within 20 days after this publication.

**ADDRESSES:** Send petitions to reopen to:

(1) Interstate Commerce Commission, Section of Finance, Room 5417, Washington, D.C. 20423.

(2) Petitioner's representatives: Sander M. Bieber, 888 Seventeenth St., N.W., Washington, D.C. 20006, (202) 872–8600. and Richard J. Flynn, 1730 Pennsyvlania Ave., N.W., Washington, D.C. 20006, (202) 624–9000.

*For copies of the full decision:* Write to: Interstate Commerce Commission, Room 2227, 12th & Constitution Ave., N.W., Washington, D.C. 20423, or call toll-free: (800) 424–5403.

Pleadings should refer to Finance Docket No. 29746.

**FOR FURTHER INFORMATION CONTACT:** Ellen D. Hanson, (202) 275–7245 or Ernest B. Abbott, (202) 275–3002.

**SUPPLEMENTAL INFORMATION:** For further information, see decision served concurrently in Finance Docket No. 29746.

Decided: November 2, 1981.

By the Commission, Chairman Taylor, Vice-Chairman Clapp, Commissioners Gresham and Gilliam.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 81-32477 Filed 11-9-81; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Bureau of Prisons

### National Institute of Corrections; Cancellation of Project

Notice is hereby given that the National Institute of Corrections has cancelled project number 1-82-03, "Implementation of Inmate Grievance Procedure" as set forth in the July 1981 *Request for Proposals, Fiscal Year 1982.*

**Allen F. Breed,**

*Director.*

[FR Doc. 81-32506 Filed 11-9-81; 8:45 am]

BILLING CODE 4410-05-M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 26-30, 1981.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

#### Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

*TA-W-11,250; Harry Fisher Corp., Philadelphia, PA*

*TA-W-11,510; Hoover-NSK Bearing Co., Ann Arbor, MI*

*TA-W-12,042; Jewel Trend Button Corp., New York, NY*

*TA-W-10,980; Shakeproof Div., Illinois Tool Works, Inc., Russellville, KY*

*TA-W-10,979; Jeffrey Chain, Dresser Industries, Inc., Morristown, TN*

*TA-W-9188; American Hose Corp., Winchester, IN*

*TA-W-11,711; Vonscot Industries, Inc., Clarence, NY*

*TA-W-11,886, 12,723, 12,724, & 12,725; Norris Industries, Inc., McIntosh Div., Berne, IN, Kendallville, IN, Bluffton, OH, and Upper Sandusky, OH*

*TA-W-11,040; Donnelly Mirrors, Inc., Holland, MI*

*TA-W-10,658 & 10,653; Aileen, Inc., Sewing Plant, McKenney, VA and Shipping Plant, Woodstock, VA*

*TA-W-10,876; Taffy Apple, Inc., Hialeah, FL*

*TA-W-10,894; The Lamson and Sessions Co., Denison Ave. Plant, Cleveland, OH*

*TA-W-10,571; Philbert Sportswear, Inc., New York, NY*

*TA-W-10,546; Uniroyal, Inc., Consumer Products Div., Middlebury, CT*

*TA-W-11,995; Julius Berger & Co., Inc., West Orange, NJ*

*TA-W-11,370 & 11,373; Modern Textile, Inc., Altamont, IL and Clarksville, Mo*

*TA-W-12,765 & 12,766; Norrwock Shoe Co., Norridgewock and Skowhegan, ME*

*TA-W-11,369; Mount Vernon Mills, Inc., Columbia Div., Columbia, SC*

*TA-W-11,976; U.S. Steel Corp., Central Furnaces, Cuyahoga Works, Cleveland, OH*

*TA-W-12,005; Mallory Capaciator Co., Huntsville, AL*

*TA-W-11,864; Allen Logging, Forks, WA*

*TA-W-11,000; Dresser Industries, Inc., Defiance, OH*

*TA-W-11,272; Holcroft & Co., Livonia, MI*

*TA-W-11,826; Co Ed Sportswear Co., Tuscaloosa, AL*

In each of the following cases the investigation revealed that criterion (3) has not been met for the reason(s) specified.

*TA-W-11,929; E.M. Lawrence, Ltd., Jersey City, NJ*

With respect to workers producing children's slacks and skirts, a survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. With respect to workers producing ladies' sweaters, the investigation revealed that criterion (2) has not been met.

*TA-W-11,560 & 11,561; D-M-E Co., Youngwood and Darlington, PA*

Aggregate U.S. imports of die mold sets and mold bases did not increase as required for certification.

*TA-W-10,219; Ironton Coke Corp., Ironton, OH*

Aggregate U.S. imports of coke did not increase as require for certification.

*TA-W-10,674; Brookfield Clothes, Inc., Long Island city, NY*

Aggregate U.S. imports of mens' and boy's tailored suits, dress coats, and sportscoats did not increase as required for certification.

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to worker separations at the firm.

*TA-W-11,591-11,594; J.I. Case Co., Racine, WI, Burlington, IA, Bettendorf, IA, and Rock Island, IL*

*TA-W-11,419; CM American McKees Rocks, PA*

*TA-W-12,292; Choice Corp., Warren, MI*

*TA-W-12,754; Combustion Engineering, Inc., Power Systems Group, Chattanooga, TN*

*TA-W-11,003; Mepco/Electra, Inc., Canandaigua, NY*

*TA-W-12,617 & 12,618; Transport Oil Co., Menasha and Antigo, WI*

*TA-W-12,127; R&S Garments, Inc., Passaic, NJ*

In each of the following cases the investigation revealed that criterion (2) has not been met.

*TA-W-12,822; Filler Systems Div., Barry-Wehmiller Co., Clearwater, FL*

*TA-W-12,464; Mona Lisa Coat Co., Hoboken, NJ*

In the following case the investigation revealed that workers engaged in the sale and servicing of cars and trucks do not produce an article within the meaning of section 222(3) of the Act.

*TA-W-12,535; Chrysler Corp., Chrysler Manhattan Dealership, New York, NY*

#### Affirmative Determination

*TA-W-10,711; Keller Stamping, Inc., Swainsboro, GA*

A certification was issued for a petition received on September 5, 1980, covering all workers of the firm separated on or after September 2, 1979.

*TA–W–11,519; Sharpe Mfg. Co., Inc., Brainerd, MN*

A certification was issued for a petition received on October 24, 1980, covering all workers of the firm separated on or after October 18, 1979.

*TA–W–11,482; Mica Products Corp., of America, Wingdale, NY*

A certification was issued for petition received on October 22, 1980, covering all workers separated on or after October 21, 1979 and before December 31, 1980.

*TA–W–11,228; Paktron, A Div. of Illinois Tool Works, Inc., Vienna, VA*

A certification was issued for a petition received on October 3, 1980, covering all workers of the firm separated on or after September 29, 1979.

*TA–W–11,190; TMX, Ltd., Bayamon, Puerto Rico*

A certification was issued for a petition received on Septembr 16, 1980, covering all workers separated on or after September 1, 1980.

*TA–W–11,657; Gerald Leather Goods Corp., Newburgh, NY*

A certification was issued for a petition received on November 6, 1980, covering all workers separated on or after November 3, 1979 and before September 30, 1980.

*TA–W–10,961; Paceco, Inc., Alameda, CA*

A certification was issued for a petition received on September 17, 1980, covering all workers of the firm separated on or after October 12, 1980.

*TA–W–10,681, 10,681A, & 11,053; Garden State Tanning, Inc., Fleetwood, PA, W.D. Byron and Sons, Inc., Williamsport, MD, and Chestnut Operating Co., Reading, PA*

A certification was issued for a petition received on September 2, 1980, covering all workers of the firm separated on or after August 28, 1979.

*TA–W–10,956; RHW, Inc., Collier Div., Colliers, WV*

A certification was issued for a petition received on September 17, 1980, covering all workers of the firm engaged in employment related to the production of caulking guns separated on or after September 11, 1979.

*TA–W–10,027; Levi Strauss & Co., Youthwear Div., Rock Island, TN*

A certification was issued for a petition received on July 25, 1980, covering all workers of the firm separated on or after March 1, 1980.

*TA–W–321; Sheperd Industries, Inc., Lenexa, KS*

A certification was issued for a petition received on August 14, 1980, covering all workers of the firm separated on or after August 4, 1979.

*TA–W–304; Fleetline Industries, Inc. (d.b.a. Brunswick of Lumberton), Lumberton, NC*

A certification was issued for a petition received on August 11, 1980, covering all workers of the firm separated on or after August 7, 1979.

*TA–W–11,669 & 11,670; Regal Bag Co., Inc., Newburgh, NY*

A certification was issued for a petition received on November 6, 1980, covering all workers of the firm separated on or after November 3, 1979.

*TA–W–12,151; Philips ECG, Inc. (formerly GTE Sylvania, Inc.), Tube Yoke Plant, Emporium, PA*

A certification was issued for a petition received on January 21, 1981, covering all workers of the firm separated on or after January 14, 1980.

*TA–W–11,922; Rawlings Sporting Goods, Co., Willow Springs, MO*

A certification was issued for a petition received on December 10, 1980, covering all workers of the firm separated on or after December 8, 1979.

*TA–W–12,387; Howard B. Wolf, Inc., Bowie, TX*

A certification was issued for a petition received on March 2, 1981, covering all workers of the firm separated on or after July 14, 1980 and before June 15, 1981.

*TA–W–12,731; Consumer Technology, Inc., Sunnyvale, CA*

A certification was issued for a petition received on May 29, 1981, covering all workers of the firm separated on or after July 1, 1980.

*TA–W–11,128 & 11,128A; Utica Cutlery Co., Inc., Utica and New York Mills, NY*

A certification was issued for a petition received on September 24, 1980, covering all workers of the firm engaged in employment related to the production of fixed blade cutlery separated on or after June 1, 1980.

With respect to pocket knives, the investigation revealed that increased imports did not contribute importantly to the declines in production and employment at the subject firm. With respect to stainless steel flatware, the investigation revealed that criterion (2) has not been met.

*TA–W–11,659 & 11,659A–E; Styl-Rite Optics, Inc. and Subsidiaries, Flushing, NY; Miami, FL; Atlanta, GA; Los Angeles, CA; Chicago, IL; and Dallas, TX*

A certification was issued for a petition received on November 6, 1980, covering all workers of Styl-Rite Optics, Inc. and Subsidiaries, Flushing, NY, Atlanta, GA, Los Angeles, CA, Chicago, IL, and Dallas, TX separated on or after November 3, 1979.

A certification was issued covering all workers of the Miami, FL plant of Styl-Rite Optics, Inc. separated on or after November 3, 1979 and before June 1, 1981.

*TA–W–12,157; Acro, Inc., Stoneham, MA*

A certification was issued for a petition received on January 21, 1981, covering all workers of the firm separated on or after January 10, 1981.

I hereby certify that the aforementioned determinations were issued during the period October 26–30, 1981. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 3, 1981.

**Marvin M. Fooks,**

*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 81–32511 Filed 11–9–81; 8:45 am]

BILLING CODE 4510–30–M

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–325 and 50–324]**

### Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 42 and 65 to Facility Operating License Nos. DPR–71 and DPR–62 issued to Carolina Power & Light Company (the licensee) which revised the Licenses for operation of the Brunswick Steam Electric Plant, Units Nos. 1 and 2 (the facility), located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

These changes reflect the addition of North Carolina Municipal Power Agency Number 3 as a co-owner of the facility. Exclusive responsibility for the operation and maintenance and the construction of capital additions to the facility will be retained by the licensee.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The

Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated September 3, 1981, as supplemented October 19, 1981, (2) Amendment Nos. 42 and 65 to License Nos. DPR-71 and DPR-62, and (3) the Commission's letter to the licensee dated November 2, 1981. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon requested addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of November 1981.

For the Nuclear Regulatory Commission.

**Thomas A. Ippolito,**

*Chief, Operating Reactors Branch No. 2, Division of Licensing.*

[FR Doc. 81-32517 Filed 11-9-81; 8:45 am]

BILLING CODE 7590-01-M

---

[Docket No. 50-213]

## Connecticut Yankee Atomic Power Co.; Granting of Relief From Certain Requirements of ASME Code Section XI Inservice (Testing) Requirements

The Nuclear Regulatory Commission (The Commission) has granted relief from certain requirements of the ASME Code, Section XI, "rules for Inservice Inspection of Nuclear Power Plant Components" to the Connecticut Yankee Atomic Power Company. The relief relates to the Inservice Inspection Program for the Haddam Neck Plant (the facility) located in Middlesex County, Connecticut. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief allows postponement of inservice inspection requirements involving disassembly and inspection of six-inch check valves, pursuant to 10 CFR 50.55a(g)(6)(i) of the Commission's regulations.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this acton.

For further details with respect to this action, see (1) the licensee's letter dated October 7, 1981, (2) the Commission's letter to the licensee dated November 3, 1981, which contains the Commission's related evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Russell Library, 119 Broad Street, Middletown, Connecticut 06457. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of November, 1981.

For the Nuclear Regulatory Commission.

**Thomas V. Wambach,**

*Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.*

[FR Doc. 81-32518 Filed 11-9-81; 8:45 am]

BILLING CODE 7590-01-M

---

[Dockets Nos. 50-269, 50-270 and 50-287]

## Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 102, 102, and 99 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company, which revised the Technical Specifications (TSs) for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the TSs to reflect current calculated string errors used in determining the Reactor Protective System setpoints and upgrade the format of the Operational Safety Instrumentation Table.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated September 8 and September 10, 1981, (2) Amendments Nos. 102, 102, and 99 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of November 1981.

For the Nuclear Regulatory Commission.

**John F. Stolz,**

*Chief, Operating Reactors Branch No. 4, Division of Licensing.*

[FR Doc. 81-32519 Filed 11-9-81; 8:45 am]

BILLING CODE 7590-01-M

---

[Dockets Nos. 50-269, 50-270, and 50-287]

## Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 103, 103, and 100 to the Facility Operating Licenses

Nos. DPR–38, DPR–47 and DPR–55, respectively, issued to Duke Power Company, which revised the Technical Specifications (TSs) for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the TSs to allow full power operation of Oconee Nuclear Station Unit 2 with the Axial Power Shaping Rods in the fully inserted position.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated October 28, 1981, as supplemented on October 29, 1981, (2) Amendments Nos. 103, 103, and 100 to Licenses Nos. DPR–38, DPR–47 and DPR–55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Reglatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of November 1981.

For the Nuclear Regulatory Commission.

**John F. Stolz,**

*Chief, Operating Reactors Branch No. 4, Division of Licensing.*

[FR Doc. 81–32520 Filed 11–9–81; 8:45 am]

BILLING CODE 7590–01–M

**[Docket Nos. STN 50–498 OL STN 50–499 OL]**

## Houston Lighting and Power Co., et al. (South Texas Project Units 1 and 2); Prehearing Conference and Evidentiary Hearing

November 4, 1981.

Notice is hereby given that, in accordance with the Atomic Safety and Licensing Board's Memorandum and Order of October 30, 1981, an evidentiary hearing concerning near-term construction activities will convene on December 8–10, 1981, in Austin, Texas, at the Austin Public Library Auditorium, Fourth Floor, 800 Guadalupe, Austin, Texas 78701. To the extent necessary, a prehearing conference will be held immediately prior to the hearing. The sessions will commence at 9:30 a.m. on December 8, and will continue (to the extent necessary) at 9:15 a.m. on December 9 and 10.

Dated at Betheda, Maryland this 4th day of November 1981.

For the Atomic Safety and Licensing Board.

**Charles Bechhoefer,**

*Chairman, Administrative Judge.*

[FR Doc. 81–32521 Filed 11–9–81; 8:45 am]

BILLING CODE 7590–01–M

## International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is completing development of a number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides are in the following five areas: Government Organization, Design, Siting, Operation, and Quality Assurance. All of the codes and most of the proposed safety guides have been completed. The purpose of these codes and guides is to provide guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries in a specified safety area. Using this collation as a starting point, an IAEA working group of a few experts develops a preliminary draft of a code or safety guide which is then reviewed and modified by an IAEA Technical Review Committee corresponding to the specified area. The draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies as necessary the drafts of all codes and guides prior to their being forwarded to the IAEA Secretariat and thence to the IAEA Member States for comments. Taking into account the comments received from the Member States, the Senior Advisory Group then modifies the draft as necessary to reach agreement before forwarding it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG–D9, "Design Aspects of Radiological Protection for Nuclear Power Plants," has been developed. An IAEA working group, consisting of Mr. R. Hock from the Federal Republic of Germany; Mr. B. F. Chamany from India; and Mr. P. A. Solari from the United Kingdom, developed this guide from an IAEA collation. The working group draft was modified by the IAEA Technical Review Committee, and we are now soliciting public comment on this draft (Rev. 5, 9/14/81). Comments received by December 18, 1981, will be particularly useful to the U.S. representatives to the Technical Review Committee and the Senior Advisory Group in developing their positions on its adequacy prior to their next IAEA meetings.

Single copies of this draft Safety Guide may be obtained by a written request to the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Washington, D.C. this 2nd day of November 1981.

For the Nuclear Regulatory Commission.

**Robert B. Minogue,**

*Director, Office of Nuclear Regulatory Research.*

[FR Doc. 81–32522 Filed 11–9–81; 8:45 am]

BILLING CODE 7590–01–M

**[Docket No. 50–395–OL]**

## South Carolina Electric & Gas Co., et al. (Virgil C. Summer Nuclear Station, Unit 1); Reconvening Hearing

November 4, 1981.

Please take notice that the evidentiary hearing will reconvene at 9:00 a.m. on December 14, 1981 in Room 101 of the Solomon Blatt Building, Capitol Complex, Pendleton and Assembly Streets, Columbia, South Carolina 29202. The public is invited to attend.

The NRC Staff is directed to pre-file its prospective testimony responding to the reports of the Board witnesses on seismology by December 4, 1981, and to deliver the Board copies of the Board Chairman's office by 3:00 p.m. on that date.

By order of the Board.

Dated at Bethesda, Maryland, this 4th day of November 1981.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

*Chairman, Administrative Judge.*

[FR Doc. 81-32523 Filed 11-9-81; 8:45 am]

BILLING CODE 7590-01-M

---

[Docket Nos. 50-445, 50-446]

**Texas Utilities Generating Co., et al., (Comanche Peak Steam Electric Station, Units 1 and 2); Application for Operating License; Amended Notice of Evidentiary Hearing and Prehearing Conference (Change of Location)**

November 4, 1981.

On September 23, 1981, notice was given that an evidentiary hearing would be held in this proceeding commencing on December 2, 1981. A prehearing conference and opportunity for some oral limited appearance statements was also noticed for the previous day, December 1, 1981 (46 FR 47033).

Due to the unavailability of the space described as the location of such hearings, it is necessary to hold these hearings on the same dates at the following location commencing at 9:00 a.m., local time: Fritz Lanham Federal Building, Room 9A35, 819 Taylor Street, Fort Worth, Texas 76102.

It is so ordered.

Dated at Bethesda, Maryland, this 4th day of November, 1981.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

*Chairman, Administrative Judge.*

[FR Doc. 81-32524 Filed 11-9-81; 8:45 am]

BILLING CODE 7590-01

---

## OFFICE OF PERSONNEL MANAGEMENT

### SES Performance Review Board Members

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the names of the members of the Performance Review Board.

**DATE:** November 10, 1981.

**FOR FURTHER INFORMATION CONTACT:** James DeFrance, Chief, Policy Development Branch, Office of Personnel and EEO, Office of Personnel Management, 1900 "E" Street, NW, Washington, DC 20415 (202-632-5430).

**SUPPLEMENTARY INFORMATION:** Sec. 4314(c) (1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Office of Personnel Management.

Donald J. Devine,

*Director.*

The Members of the Performance Review Board Are

1. Frederick A. Kistler (Chairman) Assistant Director for Budget and Management.
2. S. B. Pranger (Vice-Chairman), Associate Director for Agency Relations.
3. Michael R. Frost, Associate Director for Workforce Effectiveness and Development.
4. Patrick A. Korten, Assistant Director for Public Affairs.
5. Joseph A. Morris, Acting General Counsel.
6. James W. Morrison, Jr., Associate Director for Compensation.
7. Ann Brassier, Deputy Assistant Director for Budget and Management.
8. George Nesterczuk, Associate Director for Executive Personnel and Management Development.
9. Gerald K. Hinch, Director, Mid-Continent Region.
10. Robert P. Smith, Director of Personnel and Training, Department of Transportation (ad hoc member).

[FR Doc. 81-32462 Filed 11-9-81; 8:45 am]

BILLING CODE 6325-01-M

---

## SECURITIES AND EXCHANGE COMMISSION

### Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

November 3, 1981.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

The Coleman Company, Common Stock, $1 Par Value (File No. 7-6068)
Commerce Southwest Incorporated, Common Stock, $1 Par Value (File No. 7-6069)
Floating Point Systems Incorporated, Common Stock, No Par Value (File No. 7-6070)
United Cable Television Corporation, Common Stock, $.01 Par Value (File No. 7-6071)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 25, 1981 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 81-32548 Filed 11-9-81; 8:45 am]

BILLING CODE 8010-01-M

---

[Release No. 34-18230; File No. SR-MSRB-81-16]

### Municipal Securities Rulemaking Board; Proposed Rule Change By Self-Regulatory Organization

In the matter of proposed rule change relating to uniform practice and customer confirmations. Comments requested on or before December 1, 1981.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 23, 1981, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes**

The Municipal Securities Rulemaking Board (the "Board") is filing herewith amendments to rules G-12 on uniform practice and G-15 on customer confirmations. The text of the proposed rule changes is as follows:

Rule G-12.[1] Uniform Practice

(a) and (b) No change.

[1] *Italics* indicate new language; [brackets] indicate deletions.

(c) Dealer Confirmations.

(i) through (iv) No change.

(v) Each confirmation shall contain the following information:

(A) through (N) No change.

*The confirmation for a transaction in securities traded on a discounted basis (other than discounted securities traded on a yield-equivalent basis) shall not be required to show the pricing information specified in subparagraph (I) nor the accrued interst specified in subparagraph (K). Such confirmation shall, however, contain the rate of discount and resulting dollar price. Such confirmation may, in lieu of the resulting dollar price and the extended principal amount specified in subparagraph (L), show the total dollar amount of the discount.* The initial confirmation for a "when, as and if issued" transaction shall not be required to contain the information specified in subparagraphs (H), (K), (L), and (M) [of this paragraph] or the resulting dollar price as specified in subparagraph (I).

(vi) No change.

(d) through (l) No change.

Rule G–15 Customer Confirmations

(a) through (c) No change.

*(d) The confirmation for a transaction in securities traded on a discounted basis (other than discounted securities traded on a yield-equivalent basis) shall not be required to show the yield and dollar price information specified in subparagraph (viii) of paragraph (a) nor the accrued interest specified in subparagraph (ix) of paragraph (a). Such confirmation shall, however, contain the rate of discount and resulting dollar price. Such confirmation may, in lieu of the resulting dollar price and the extended principal amount specified in subparagraph (x) of paragraph (a), show the total dollar amount of the discount.*

[(d)] through [(h)] renumbered as (*e*) through (*i*). No substantive change.

**II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes**

*A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes*

(a) Rule G–15 sets forth certain requirements concerning the information to be set forth on customer confirmations of transactions in municipal securities; rule G–12(c) sets forth comparable requirements concerning inter-dealer confirmations. Among other items, both rules require that confirmations contain information concerning the yield of the transaction[2] and detail of the principal and interest dollar amounts.

While the vast majority of municipal securities are traded on the basis of a yield or dollar price, the Board is aware that certain municipal notes are traded on a discounted basis. For example, this method of pricing is frequently used in connection with transactions in certain short-term notes which have been characterized as municipal "commercial paper." The proposed rule changes establish appropriate confirmation requirments for municipal securities traded on this price basis.

The proposed rule changes establish the following requirements:

1. The proposed rule changes eliminate the requirement that confirmations of such transactions show yield and accrued interest, and substitute a requirement that such confirmations show the rate of discount and resulting dollar price. The Board is of the view that the rate of discount, rather than the yield, is the appropriate disclosure for such confirmations. The Board notes that this is the price basis on which the transactions are effected, and also that the rate of discount provides a common means of evaluating these investment instruments against the other alternatives with which they are likely to be compared (*e.g.*, corporate commercial paper).

Since the return on a discounted security is received in the form of an accretion of the discount to par, there is no "accrued interest" on such securities. Accordingly, the Board proposes to exempt confirmations of transactions in such securities from the requirement to disclose accrued interest.

2. The proposed rule changes permit an alternative method of showing the total transaction dollar amount computation. Normal confirmation practice on municipal securities transactions shows this computation as an addition of the extended principal (the par value multiplied by the dollar price) and the accrued interest to derive the total dollar amount of the transaction. Since there is not accrued interest on a discounted security, the comparable confirmation disclosure would simply show the extended principal (the par value multiplied by the dollar price derived from the rate of discount), which is equal to the total dollar amount of the transaction.

The Board is aware that a somewhat different format for presenting the total dollar amount computation is used for certain discounted municipal securities, as well as for other discounted instruments. This format presents the computation as a subtraction of the total dollar amount of the discount from the par value of the securities to derive the total dollar amount of the transaction. The Board believes that this method of confirmation presentation is also satisfactory and that requiring use of a different confirmation format would impose expensive and unnecessary confirmation and reprogramming changes on dealers currently using this method. Accordingly, the proposed rule changes permit use of this format.

3. The proposed rule changes apply only to certain transactions in discounted securities. Some transactions in discounted securities are effected on a yield-equivalent basis, that is, the rate of discount is converted to its yield equivalent and the transaction is confirmed at this price.[3] For this type of transaction the existing confirmation rules are appropriate and are in accord with existing confirmation practice. Accordingly, the proposed rule changes would not apply to this type of transaction, but would apply solely to transactions effected on the basis of a rate of discount.

(b) The proposed rule changes are adopted pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, which requires and empowers the Board to adopt rules—

designed * * * to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

The Board believes that the proposed rule changes will ensure that investors and other parties to transactions in discounted securities will be provided with confirmations which accurately reflect the terms of such transactions.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Board is of the opinion that the proposed rule changes will not impose any burdens on competition, inasmuch as the proposed rule changes establish general confirmation requirements that will apply equally to all municipal securities brokers and municipal

[2] Rule G–12 requires disclosure of the yield only if the yield is the price basis of the transaction.

[3] This method is more commonly used with discounted securities that are more closely comparable to the traditional municipal note.

securities dealers effecting transactions in discounted securities. The Board believes that the proposed rule changes may act to remove a burden on competition, since they eliminate the need for confirmation and programming changes to conform to existing confirmation requirements.

*C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Changes Received from Members, Participants, or Others*

The Board neither solicited nor received comments on the proposed rule changes from members of the municipal securities industry or the general public.

**III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action**

On or before December 15, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before December 1, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

November 2, 1981.

[FR Doc. 81-32547 Filed 11-9-81; 8:45 am]

BILLING CODE 8010-01-M

---

**[Release No. 34-18233; File No. SR-MSRB-81-17]**

## Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Proposed Rule Change

In the matter of proposed rule change relating to uniform practice comments requested on or before December 1, 1981.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 23, 1981, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

(a) The Municipal Securities Rulemaking Board ("Board") is filing herewith an amendment to rule G-12 relating to uniform practice. The text of the proposed rule change is as follows:

Rule G-12.[1] Uniform Practice.

(a) Through (d) No change.

(e) Delivery of Securities. The following provisions shall, unless otherwise agreed by the parties, govern the delivery of securities:

(i) Through (xiv) No change.

(xv) Money Differences. The following money differences shall not be sufficient to cause rejection of delivery:

| Par value | Maximum differences per transaction |
|---|---|
| $1,000 to $24,999 | $10 |
| $25,000 to $99,999 | 25 |
| $100,000 to $249,999 | 60 |
| $250,000 to $999,999 | 250 |
| $1,000,000 and over | 500 |

The calculations of the seller shall be utilized in determining the maximum permissible differences and amount of payment to be made upon delivery. *However, if the money difference is due to the computation by one party of the formula required under rule G-33 directly to the settlement date of the transaction, and the use by the other party of another computation method (including the dollar price interpolation method permitted under subparagraph (b)(i)(D) of rule G-33), the calculations of the party computing directly to the settlement date shall be deemed accurate, and payment made in accordance with such calculations.* The parties shall seek to reconcile any such money differences within ten business days following settlement.

(f) Through (l) No change.

[1] Italics indicate new language.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

(a) Rule G-12 sets forth uniform practices to be followed by all municipal securities brokers and municipal securities dealers, including standards governing the delivery of securities on municipal securities transactions. Among other matters, the rule establishes a schedule of money differences, and specifies that a delivery on which there is a difference between the contract moneys shown by the selling dealer and the contract moneys known by the purchasing dealer shall be accepted if the difference is less than or equal to the applicable amount established in the schedule. The parties to the transaction are required to resolve the money difference and to take steps to ensure that the correct moneys have been paid within ten business days of the delivery date.

On September 4, 1981, the Board filed with the Commission proposed rule G-33 (File No. SR-MSRB-81-14), which prescribes standard formulas for the computation of accrued interest, dollar price, and yield, and also sets other standards for related calculations areas. Among other matters, the proposed rule would permit the use of the "interpolation" method of deriving a dollar price from a yield until January 1, 1984. After that time municipal securities brokers and dealers would be required to use the "direct pricing" method; that is, they would have to compute the dollar price directly to the settlement date of the transaction. In the filing the Board noted, however, that many municipal securities brokers and dealers already compute the dollar price

directly to the settlement date of the transaction.

The Board believes that many of the minor money differences and discrepancies on transactions are the result of differences in the computational methods used by the two parties to the transaction. In particular, a significant number of these may result from the use by one party of the "interpolation" method of computing a dollar price, and the use by the other party of the "direct pricing" method. While the Board believes that both methods should continue to be permissible at the present time for confirmation processing purposes (so as to permit sufficient time for the necessary computer and calculator reprogramming), the Board is also of the view that the "direct pricing" method is the more correct method, and that the dealer using the "direct pricing" method should be deemed to have the correct calculations. Accordingly, the proposed rule change provides that, if the money difference on a transaction is due to the use by the two parties of different computational methods, with one party using the "direct pricing" method, and the other party using a different method (including the "interpolation" method permitted until January 1, 1984 under subparagraph (b)(i)(D) of proposed rule G–33), the calculations of the party using the "direct pricing" method shall be deemed accurate for purposes of the reconciliation of the money difference.

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, which authorizes and directs the Board to adopt rules which are:

> designed * * * to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to, and facilitating transactions in municipal securities * * *

The Board believes that the proposed rule change will further the purposes of the Act inasmuch as it will help to ensure prompt and equitable resolution of money differences on transactions.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Board does not believe that the proposed rule change will have any effect on competition inasmuch as it simply establishes a standard that will assist all municipal securities brokers and dealers in the prompt resolution of money differences on settled transactions.

*C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Board neither solicited nor received comments on the proposed rule change. The Board included in the August 15, 1980 exposure draft of rule G–33 and indication that it intended to adopt a provision similar to the proposed rule change. In response, one commentator asserted that this suggestion was not "practical." The Board believes that the proposed rule change will be easily complied with, since municipal securities brokers and dealers will know or be able to determine easily if they use the "direct pricing" method of dollar price computation.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

On or before December 14, 1981 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before December 1, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 3, 1981.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 81–32540 Filed 11–9–81; 8:45 am]
BILLING CODE 8010–01–M

---

**[Release No. 34–18231; File No. SR–MSRB–81–10]**

## Municipal Securities Rulemaking Board; Self-Regulatory Organizations; Proposed Rule Changes

In the matter of proposed rule change relating to uniform practice comments requested on or before December 1, 1981.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 23, 1981, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes**

(a) The Municipal Securities Rulemaking Board ("Board") is filing herewith an amendment (the "proposed amendment") to the proposed rule changes to rule G–12 relating to uniform practice contained in File No. SR–MSRB–81–10 (the "proposed rule changes"). The proposed rule changes, as modified by the proposed amendment, are, in pertinent part, as follows:

Rule G–12.* Uniform Practice

(a) through (c) No change.

(d) Comparison and Verification of Confirmations; Unrecognized Transactions.

(i) Through (vi) No change.

(vii) In the event a party has submitted a transaction for comparison through the facilities of a registered clearing agency but such transaction fails to compare, the submitting party shall, within one business day after final notification of the failure to compare is received from the clearing agency, initiate the procedures required by paragraph (iii) of this section; *provided, however, that if the submitting party initiates within such time period, in*

* *Italics* indicate new language.

*accordance with the rules of a registered clearing agency, a post-original-comparison procedure on the uncompared transaction, which requires affirmative action of the contra-party, the submitting party shall not be required to follow the procedures required by paragraph (iii) of this section.*

(viii) And (ix) No change.

(e) Through (l) No change.

**II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes**

*A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes*

(a) Rule G–12 sets forth uniform practices to be followed by all municipal securities brokers and municipal securities dealers including procedures relating to the clearance and settlement of municipal securities transactions. Presently, rule G–12 excludes from its application transactions which are "compared, cleared and settled through the facilities of a clearing agency registered with the Commission." On June 1, 1981 the Board filed the proposed rule changes, which would modify this exemptive provision, and incorporate into the rule other provisions concerning transactions submitted to registered clearing agencies for comparison and clearance. Among other matters, the proposed rule changes would establish a verification procedure for transactions which are submitted to a registered clearing agency for comparison but fail to compare.

The National Securities Clearing Corporation ("NSCC"), a registered clearing agency which offers automated comparison and clearance services for municipal securities transactions, has advised the Board that it intends to offer participants a special procedure for comparison of certain municipal securities transactions. Under this procedure, a dealer who had previously submitted a transaction for comparison which had failed to compare could resubmit such transaction, not earlier than the fourth business day following the trade date, on a basis which would provide that, if the named contra-party did not respond on the transaction within a specified time period, the transaction would be deemed compared as submitted by the confirming dealer. If the named contra-party does not know the transaction, it would have to submit instructions to NSCC advising that it "DK's" the trade.

As is the case with the verification procedure prescribed under paragraph (d)(iii) of the Board's rule, this post-original comparison procedure requires the non-confirming party to respond in some fashion to the advice of the transaction. Since the procedure contemplated by NSCC accomplishes the desired end of fostering timely comparison of transactions, and makes use of the efficiencies offered by a clearing agency, the Board believes that it is a satisfactory alternative to the procedure required under paragraph (d)(iii). Accordingly, the proposed amendment would specify that, if a dealer submits a trade for comparison through the clearing agency but such trade does not compare, the submitting dealer need not follow the procedure required under paragraph (d)(iii) if the dealer initiates this special post-original comparison procedure through the clearing agency within the required time period.

(b) The Board has adopted the proposed amendment pursuant to Section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, which establishes the Board's general authority to adopt rules

to foster cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to, and facilitating transactions in municipal securities * * *

The proposed amendment and the proposed rule changes also will facilitate implementation of automated clearing systems consistent with the objectives of Section 17A of the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Board believes that the proposed amendment and the proposed rule changes will not impose any burden on competition since they provide technical adjustments to coordinate the standards and requirements of the Board's rule regarding clearance and settlement with the procedures normally used by registered clearing agencies.

*C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Changes Received From Members, Participants, or Others*

The Board neither solicited nor received comments on the proposed amendment. Certain aspects of the proposed amendment were discussed previously with representatives of the National Securities Clearing Corporation.

**III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action**

On or before December 14, 1981 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before December 1, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 2, 1981.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 81–32542 Filed 11–9–81; 8:45 am]

BILLING CODE 8010–01–M

---

**[Release No. 22258 (70–6663)]**

## Philadelphia Electric Power Co.; Proposed issuance and Sale of Promissory Notes to Banks

November 3, 1981.

Philadelphia Electric Power Company ("PEPCo"), 2301 Market Street, Philadelphia, Pa. 19101, a registered holding company and a subsidiary

company of Philadelphia Electric Company ("PECo"), an exempt holding company, has filed a declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act").

PEPCo proposes through December 31, 1983, to issue and sell to a group of banks up to $7,000,000 of short-term notes outstanding at any one time. The interest on such notes is to be at the prime commercial rate in effect at the time of their issuance or renewal. There are no specific requirements for compensating balances in conjunction with the proposed bank loans; however, the holding company, PECo, maintains deposits with banks for working funds for normal operations. The $7,000,000 represents approximately 14½% of the principal amount and par value of PEPCo's other securities outstanding. PEPCo had outstanding bank loans of $3,900,000 as of August 31, 1981. The proceeds of the notes will be used by PEPCo for interest payments on its debentures, to met sinking fund obligations on its debentures, and for common stock dividend payments to PECo.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 30, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 81-32541 Filed 11-9-81; 8:45 am]

BILLING CODE 8010-01-M

## SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 1-B]

### Delegation of Authority; Interagency Agreements

I. Pursuant to the authority vested in me by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, the following authority is hereby delegated as shown below:

A. The positions listed below, in addition to the Administrator, are hereby delegated authority to sign interagency agreements with other Government agencies:

Deputy Administrator
Associate Deputy Administrator

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as acting in one of the positions shown above.

Effective Date: November 10, 1981.

Dated: November 3, 1981.

Michael Cardenas,

*Administrator.*

[FR Doc. 81-32554 Filed 11-9-81; 8:45 am]

BILLING CODE 8025-01-M

---

[Declaration of Disaster Loan Area No. 2014]

### Michigan; Declaration of Disaster Loan Area

Genesee and Oakland Counties and adjacent counties constitute a disaster area as a result of flooding caused by heavy rains which occurred on September 30 and October 1, 1981. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 4, 1982, and for economic injury until the close of business on August 3, 1982, at the following address: Small Business Administration, District Office, 477 Michigan Avenue, Detroit, Michigan 48226 or other locally announced locations.

Information on recent regulatory changes (Pub. L. 97-35, approved August 13, 1981) is available at the above mentioned office.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 3, 1981.

Michael Cardenas,

*Administrator.*

[FR Doc. 81-32556 Filed 11-9-81; 8:45 am]

BILLING CODE 8025-01-M

---

### Statutory Changes in Disaster Loan Assistance

Notice is hereby given that pursuant to Pub. L. 97-35, the Small Business Administration's disaster loan making authority has been changed.

*Disaster Home/Personal Property Loans:* Effective August 13, 1981, a "credit elsewhere" test will be applied to applicants for disaster home/personal property loans to determine the interest rate to be charged.

If an applicant is determined to be able to obtain credit elsewhere, the interest rate on the loan will be the rate prescribed by the Administration but not more than the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 per centum per year as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum.

If the applicant is determined to be unable to obtain credit elsewhere, the interest rate to be charged will be the rate prescribed by the Administration but not more than one-half the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge not to exceed 1 per centum per year as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum but not to exceed 8 per centum per year.

*Disaster Business Loans:* Effective August 13, 1981, applicants for disaster business loans which are determined to be unable to obtain credit elsewhere, will be charged an interest rate not to exceed 8 per centum per year.

For disaster business loan applicants which are determined to be able to obtain credit elsewhere, the interest rate will not exceed the rate prevailing in the

private market for similar loans and not more than the rate prescribed by the Administration as the maximum interest rate for deferred participation (guaranteed) loans under Section 7(a) of the Small Business Act. These loans will be limited to a maximum term of three years.

Disaster loans to businesses will be limited to 85 percent of the verified loss. Disaster loans to businesses will not exceed $500,000, unless the applicant is determined by the Administration to be a "Major Source of Employment."

Applicants for Economic Injury Disaster Loans will be charged an interest rate not to exceed 8 per centum per year, with a maximum loan limit of $500,000.

*Non-Physical Disaster Loans:* Effective October 1, 1981, Sections 7(b)(3) through 7(b)(9) and 7(g)(1) of the Small Business Act, are repealed.

The legislation further mandates that any business applicant for assistance pursuant to paragraph (1), (2) or (4) of Section 7(b) of the Small Business Act, whose application was received but not approved by the Agency on or before March 19, 1981, and who was declined for assistance, or received only partial loan assistance, may be offered loan assistance by SBA. The appropriate applicants affected by this mandate are being notified individually by the Agency. Questions regarding assistance under this mandate should be directed to the local SBA office.

For further information: Deputy Associate Administrator for Disaster Assistance, Room 820, Small Business Administration, 1441 L St., NW., Washington, D.C. 20416, (202) 653–6879.

Dated: November 3, 1981.

**Michael Cardenas,**

*Administrator.*

[FR Doc. 81–32555 Filed 11–9–81; 8:45 am]

BILLING CODE 8025–01–M

# Sunshine Act Meetings

Federal Register
Vol. 46, No. 217
Tuesday, November 10, 1981

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

| | Items |
|---|---|
| Federal Communications Commission. | 1 |
| National Science Foundation | 2 |
| Securities and Exchange Commission. | 3 |

1

**FEDERAL COMMUNICATIONS COMMISSION**

Deletion of Agenda Items From November 5th Special Open Meeting

The following items have been deleted from the list of agenda items scheduled for consideration at the November 5, 1981, Special Open Meeting and previously listed in the Commission's Public Notice of October 22, 1981.

*Agenda, Item No., and Subject*

Cable Television—1—*Title: Report and Order in Docket 18891. Summary:* Amendment of Part 76, subpart J, of the Commission's rules regarding diversification of control of community antenna television stations.

Cable Television—2—*Title: Report and Order in Docket 20423. Summary:* Amendment of Part 76, subpart J, of the Commission's rules regarding postponement of the divestiture requirement of section 76.501 relative to prohibited cross-ownership in existence on or before July 1, 1970.

Issued: November 4, 1981.

William J. Tricarico,

*Secretary, Federal Communications Commission.*

[S-1689-81 Filed 11-6-81; 10:24 am]

BILLING CODE 6712-01-M

2

**NATIONAL SCIENCE BOARD**

**DATE AND TIME:**

November 19, 1981, 9 a.m., Open Session.
November 20, 1981, 8:30 a.m., Open Session; 9:30 a.m. Closed Session.

**PLACE:** National Science Foundation, 1800 G Street, N.W., Washington, D.C.

**STATUS:** Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

**MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS:** Thursday, November 19, 9 a.m.:

1. Minutes—Open Session—230th Meeting.
2. Chairman's Items.
3. Director's Report:
a. Report on Grant and Contract Activity—10/15-11/18/81.
b. Organizational and Staff Changes.
c. Congressional and Legislative Matters.
d. NSF Budget for Fiscal Year 1982.
4. NSF Advisory Groups and Other Events.
5. Program Review—Earth Sciences.

Friday, November 20, 8:30 a.m. (Conclusion of Open Session):

6. Reports on Meetings of Board Committees.
7. Other Business.
8. Next Meeting—National Science Board—January 21-22, 1982.

**MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:** Friday, November 20, 9:30 a.m.:

A. Minutes—Closed Session—230th Meeting.
B. Grants, Contracts, and Programs.
C. NSF Budget Requests for Fiscal Year 1983 and Subsequent Years.
D. NSB Annual Reports.
E. Draft Report of Congressional Research Service, Library of Congress, to House Committee on Science and Technology.
F. NSB and NSF Staff Nominees.

**CONTACT PERSON FOR MORE INFORMATION:** Miss Catherine Flynn, NSB Staff Assistant, (202) 357-9582.

[S-1691-81 Filed 11-6-81; 2:47 pm]

BILLING CODE 7555-01-M

3

**SECURITIES AND EXCHANGE COMMISSION**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of November 16, 1981, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, November 17, 1981, at 10:00 a.m. and on Thursday, November 19, 1981, following the 2:30 p.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Loomis, Evans, Thomas, and Longstreth voted to consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 17, 1981, at 10:00 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory authorities.
Formal orders of investigation.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Freedom of Information Act appeals.
Regulatory matter regarding financial institution.

The subject matter of the closed meeting scheduled for Thursday, November 9, 1981, following the 2:30 p.m. open meeting, will be:

Opinion.

The subject matter of the open meeting scheduled for Thursday, November 19, 1981, at 2:30 p.m., will be:

1. Consideration of whether to adopt Rule 180 under the Securities Act of 1933 which would exempt from the registration requirements of the Act interests and participations issued in connection with H.R. 10 plans that meet the criteria set forth in the rule. For further information, please contact Paul Roye at (202) 272-3014.

2. Consideration of whether to authorize the Office of the General Counsel to arrange for the transfer of past Commissioners' files to a repository of historic Commission materials being established by the Georgetown University Law Center and to commit the Commission to continue to transfer the files of each Commissioner as he or she leaves the Commission, subject to the retention for ten years of confidential information contained in a Commissioner's files. For further information, please contact Theodore Bloch at (202) 272-2454.

3. Consideration of whether to authorize the publication of a release proposing for public comment rules that would (1) specify the currency in which the financial statements of foreign issuers must be stated, (2) require a history of exchange rates, and (3) require information concerning the effect of changing prices for certain foreign registrants. For further information, please contact Carl Bodolus at (202) 272-3250.

4. Consideration of whether to authorize the publication of a release proposing for public comment (1) an integrated disclosure system for foreign private issuers that would involve three forms under the Securities Act of 1933 and related rules; (2) revisions to Form 20-F, a consolidated registration and

annual report form under the Securities Exchange Act of 1934; and (3) a rule relating to the age of financial statements in filings by foreign private issuers. For further information, please contact Ronald Adee at (202) 272–3250.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Siegelbaum at (202) 272–2468.

November 5, 1981.

[S–1690–81 Filed 11–6–81; 1:09 pm]

BILLING CODE 8010–01–M