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Tuesday
February 24, 1981

Highlights

13682 **Banks, Banking** FHLBB amends regulations governing borrowing by savings and loan institutions the accounts of which are insured by FSLIC; effective 2-13-81

13681 **Nuclear Material** NRC extends effective date until March 21, 1981 on criteria and procedures for determining access to or control over special nuclear material

13816 **Marijuana** HHS/NIH gives notice of study of the health-related effects of marijuana use

13888 **Radio** FCC publishes final rule regarding deregulation of radio; effective 4-3-81 (Part V of this issue)

13818 **Health Planning** HHS/PHS publishes notice of adjustment factor for certificate of need review expenditure minimums

13686 **Air Transportation** CAB amends guidelines for individual determinations of essential air transportation; adopted 2-19-81; effective 2-24-81

13958 **Grant Programs** OMB asks for comments by 4-27-81 regarding standard assurances for Federal Assistance Programs (Part VI of this issue)

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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.

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13729 **Government Employees** OPM proposes to amend regulations on agency administrative grievance systems; comments by 4–27–81

13818 **Grant Program** HHS/SSA makes available fiscal year 1981 funds for research grants on improving the Old-Age, Survivors, and Disability Insurance and Supplemental Security Income programs; apply by 5–10–81

13962 **Grant Programs—Youth** HHS/HDSO announces availability of fiscal year 1981 funds for Runaway and Homeless Youth Center Program Grants; apply by 4–27–81 (Part VII of this issue)

13876 **Grant Program—Native Americans** HHS/HDSO announces availability of fiscal year 1981 Financial Assistance for new Native American Projects; apply by 5–11–81 (Part II of this issue)

13880 **Grant Program—Native Americans** HHS/HDSO announces availability of fiscal year 1981 Financial Assistance for a Native American Status Clarification Resource Mobilization Project; apply by 5–11–81 (Part III of this issue)

13884 **Grant Program—Native Americans** HHS/HDSO announces availability of fiscal year 1981 Financial Assistance for Native American Status Clarification Projects; apply by 5–11–81 (Part IV of this issue)

13754 **Minority Businesses** Commerce/MBDA replaces one project to provide management and technical assistance to minority-owned businesses; apply by 3–12–81

13816 **Retirement** HHS/NIH is preparing a report on the mandatory retirement of commercial airline pilots at age 60; available after 4–3–81; comments by 5–4–81

13752 **Cigars** USDA/ASCS gives notice that separate referendums will be held of farmers engaged in production of 1980 crop of cigar binder (types 51 & 52) and cigar filler and binder tobacco; referendums held by mail ballot 2–23 through 2–27–81

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Rules and Regulations

Federal Register
Vol. 46, No. 36
Tuesday, February 24, 1981

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Domestic Licensing Proceedings; Procedural Assistance Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Final Rules; Suspension of certain provisions.

SUMMARY: The Commission suspends immediately the effectiveness of 10 CFR 2.712(f) and 2.750(c), concerning procedural assistance to non-applicant parties in domestic licensing proceedings. This suspension is based on a December 3, 1980, decision of the Comptroller General (No. B–200585) that found unlawful the use of funds appropriated under Pub. L. 96–367 (FY 1981 Appropriations Act) for the provision of free transcripts to and copying and service of written submissions of non-applicant parties in these proceedings. The Commission may consider a revision of its transcript program at a future date.

EFFECTIVE DATE: February 24, 1981.

FOR FURTHER INFORMATION CONTACT: Martha A. Torgow, Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 202/634–1465.

SUPPLEMENTARY INFORMATION: On July 25, 1980, the Commission published a final rule to implement a pilot program of procedural assistance in domestic licensing proceedings, except for antitrust proceedings, to parties other than the applicant by (1) providing a transcript without charge and (2) copying and serving certain written submissions on request. 10 CFR 2.750(c), 2.712(f), 45 FR 49535. In addition, the NRC reduced the number of copies required to be filed by any party with the Commission from 20 to 2. 10 CFR 2.708(d)(2), *supra*. The Commission had begun to implement that program in its licensing proceedings.

The Comptroller General was requested to review this program and determine whether it was lawful under Section 502 of the Energy and Water Development Appropriations Act for FY 1981, Pub. L. 96–367. That section states that FY 1981 funds may not "be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act." On December 3, 1980, the Comptroller General concluded that the first two elements of the program (free transcripts and free copying and service for non-applicant parties) could not be funded from moneys available under that Act, but that the third element (reduction of copies for all parties) could. Opinion No. B–200585. The Comptroller General reasoned that provision of transcripts and free copying and service were litigation expenses that would inevitably have been paid by the non-applicant party and that the assistance program transferred the expense to the NRC to be paid out of appropriated funds. However, a reduction in the number of copies of papers required to be filed did not compensate intervening parties, but merely eliminated a cost for all parties. On December 4, Chairman Ahearne ordered an immediate suspension of the NRC's procedural assistance program on transcripts and copying and service, pending further direction from the Commission.

This notice announces the formal suspension of the transcript and copying and service portions of the program. 10 CFR 2.750(c) and 2.712(f). Because implementation of these portions of the program through appropriations under the FY 1981 Appropriations Act has been found unlawful by the Comptroller General and thus would not be in the public interest, good cause exists for making this suspension effective without prior notice and comment and upon publication. The Commission may at some future time revise its program of free transcripts and will consider any comments filed on the suspension and proposals for future action which are filed with the Secretary of the Commission within 30 days of publication of this notice.

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 amendments to Title 10, Chapter I, Code of Federal Regulations, Part 2, are published as a document subject to codification.

§ 2.712 [Amended]

1. Section 2.712(f) of 10 CFR Part 2, concerning free copying and service, is amended by revising footnote 1 at the end thereof to read as follows:

[1]This paragraph is suspended until further action of the Commission.

§ 2.750 [Amended]

2. Section 2.750(c) of 10 CFR Part 2, concerning free transcripts, is amended by revising footnote 1 at the end thereof to read as follows:

[1]This paragraph is suspended until further action of the Commission.

(Sec. 161p, as amended, Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201p); Sec. 201 as amended, Pub. L. 93–438, 88 Stat. 1243 (42 U.S.C. 5841))

Dated at Washington, D.C., this 19th day of February 1981.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-6237 Filed 2-23-81; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Parts 11, 50, and 70

Change of Effective Date for Application, Recordkeeping, and Reporting Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Final Rule; Extension of Effective Date.

SUMMARY: The Nuclear Regulatory Commission is extending from February 4, 1981 to March 21, 1981, the effective date for the application, recordkeeping, and reporting requirements contained in a final rule establishing "Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material", 10 CFR Part 11, and conforming amendments to 10 CFR Parts 50 and 70, which was published as **Federal Register** Document 80–36442 appearing at page 76968 on November 21, 1980. This extension of the effective

date for the application, recordkeeping, and reporting requirements contained in the rule is made in order to allow additional time for completion of the review of those requirements by the General Accounting Office.

EFFECTIVE DATE: February 24, 1981.

FOR FURTHER INFORMATION CONTACT: Kristina Z. Markulis, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (Phone: 301–443–5903).

SUPPLEMENTARY INFORMATION: In a final rule published in the **Federal Register** on November 21, 1980 (45 FR 76968) the NRC published "Criteria and Procedures for Determining Eligiblity for Access to or Control Over Special Nuclear Material," 10 CFR Part 11, and conforming amendments to 10 CFR Parts 50 and 70. That rule was to become effective on February 4, 1981. In order to allow additional time for the Comptroller General's review conducted under the Federal Reports Act, as amended, 44 U.S.C. 3512, the effective date for the application, recordkeeping, and reporting requirements contained in the rule, unless advised to the contrary, is extended to March 21, 1981. The effective date for all of the other regulatory requirements contained in the rule remains unchanged. The application, recordkeeping, and reporting requirements which wilkl become effective on March 21, 1981 are contained in 10 CFR Part 11, §§ 11.9, 11.11(a), 11.13(b), 11.15(b), 11.15(c), and 11.15(d).

Since the requirement relates solely to a minor procedural matter, notice of proposed rulemaking and public procedure thereon are unnecessary, and good cause exists to make the amendments effective upon publication in the **Federal Register.**

(Sec. 161; Pub. L. 83–703, 68 Stat. 948, Pub. L. 93–377, 88 Stat. 475; Sec. 201, Pub. L. 93–438, 88 Stat. 1242–2143, Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 2201, 5841)

Dated at Bethesda, Maryland, this 10th day of February, 1981.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 81-6006 Filed 2-23-81; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

[No. 81-82]

12 CFR Parts 545, 556, 561 and 563

Amendments Concerning Borrowing

Dated: February 13, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final amendments.

SUMMARY: The Board has amended its regulations governing borrowing by savings and loan institutions the accounts of which are insured by the FSLIC. These amendments: (1) permit insured institutions to offset liabilities with commitments for borrowing or for sale of an investment for purposes of the limitation on the distribution of maturities of liabilities; (2) clarify that securities evidencing agreements to repurchase direct obligations of, or obligations guaranteed by, the United States or its agencies are not subject to the minimum denomination requirements for securities evidencing outside borrowings; (3) extend treatment as a borrowing to the sale of any type of loan or participation interest subject to a repurchase obligation; (4) provide an alternative for calculating the amount of borrowing resulting from the sale of any type of loan or participation interest subject to an obligation to repurchase at par; (5) exclude from the requirement of sale without recourse, the sale of any type of loan or participation interest subject to either a subordinated interest or a guarantee against loss, not to exceed 10% of the outstanding indebtedness represented by the loans; (6) extend the FSLIC right to purchase to any type of loan collateralizing outside borrowings with an original maturity in excess of one year in the event of default; (7) limit to 7 days the right of the FSLIC to purchase GNMA single-family mortgage-backed securities collateralizing outside borrowings in the event of default; and (8) exempt from offering-circular and review requirements securities evidencing outside borrowings with a maturity of one year or less.

EFFECTIVE DATE: February 13, 1981.

FOR FURTHER INFORMATION CONTACT: Peter M. Barnett (telephone (202) 377–6445) or John P. Soukenik (telephone (202) 377–6427), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C., 20552.

SUPPLEMENTARY INFORMATION: On May 22, 1980 (Resolutions No. 80–328, –329), the Board amended its regulations governing outside borrowing by savings and loan institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC"). These amendments liberalized and simplified previously existing limitations. The Board has monitored closely the borrowing activities of insured institutions since adoption of the amended regulations and has received comments concerning the effect of the regulations on the operations of insured institutions. As a result, the Board has determined that modification of certain restrictions contained in the amended regulations is appropriate.

Liability Distribution

By its May, 1980 action, the Board limited the distribution of maturities of all types of liabilities. The regulation (12 CFR 563.8–3) requires that an institution notify the Board's Principal Supervisory Agent (i.e., the President of the Federal Home Loan Bank of which the institution is a member) prior to undertaking any obligation that would cause the aggregate amount of an institution's liabilities maturing in any three-month period, less the amount of the institution's liquid assets, to exceed 30 percent of the institution's assets at the time that the additional liability is incurred. In addition, the regulation requires prior FSLIC approval of any obligation that would cause the aggregate amount of an institution's liabilities maturing in any three-month period, less the amount of its liquid assets, to exceed 40 percent of the institution's total assets.

In determining whether prior notice or prior approval is required before incurring a liability, an institution must aggregate its liabilities maturing in any three-month period. Liabilities include any savings account (including an account of $100,000 or more) with a specified term or maturity date, any borrowing (including advances from a Federal Home Loan Bank or State-chartered central reserve institution), any investment commitment (including any commitment to make or purchase a loan or participation therein), and any loans in process (undistributed loan proceeds).

By its action today, the Board permits institutions to offset against aggregate liabilities commitments for borrowing and commitments for sale of an investment within the three-month period. A commitment for borrowing or a commitment for sale of an investment must be in writing and state the date the transaction is to be completed and the interest rate for the borrowing or the price for the sale. A commitment must be a binding obligation on the part of the lender or the purchaser, and an option to lend or to buy will not be deemed to be a "commitment" even though it may be given that designation by the parties.

By offsetting commitments for borrowing and for sale of investments ("short positions") in defining aggregate liabilities, the Board is liberalizing the

limitations of § 563.8–3 with regard to the distribution of maturities of liabilities and increasing the ability of institutions to borrow without prior notice or prior approval. More importantly, the amendments create an incentive for associations to hedge liabilities with appropriate short positions. For example, an institution may offset commitments to make mortgage loans with commitments for the sale of mortgage loans in the secondary mortgage market. The Board hopes that this action will increase the emphasis of institutions on careful planning to provide funds for all types of liabilities consistent with lending objectives, anticipated earnings performance, cashflow forecasts and other budget considerations.

Transfer and Repurchase of Government Securities

On August 2, 1979 (Board Resolution No. 79–419), the Board modified its policy on agreements to repurchase direct obligations of, or obligations guaranteed by, the United States or its agencies (12 CFR 531.12) to provide that member institutions may offer such agreements in denominations under $100,000 with a maturity of less than 90 days, provided that the agreement (1) bears on its face a legend stating that the obligation is not a savings account or deposit and is not insured by the FSLIC and (2) cannot be renewed or extended automatically. The Board also adopted a new policy statement (12 CFR 556.10) that specifically excluded such agreements issued by Federal associations from limitations on the issuance of securities.

In adopting the May, 1980, amendments to the regulations governing outside borrowings, the Board did not make special provision for borrowings resulting from repurchase transactions under § 531.12. This has resulted in questions regarding the application of § 563.8 to such transactions. To resolve any questions, the Board's action today expressly provides an exception to the minimum denomination requirements of § 563.8 for securities evidencing outside borrowings in the form of an obligation maturing in less than 90 days to repurchase direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof. Insured institutions should note, however, that these securities are subject to the requirements otherwise governing secured borrowings, including the requirement that the aggregate book value of all collateral securing outside borrowings may not exceed 25 percent of the institution's assets.

In addition, the Board deletes its policy statement (12 CFR 556.10) governing § 531.12 transactions, which has been superseded by the May, 1980, amendments.

Sale of Loans Subject to Repurchase Obligation

Current regulations (12 CFR 563.8) require an insured institution to treat a sale of a mortgage pool under terms that require repurchase at par of all of the current and outstanding mortgages, up to a stated percentage of the original pool, after a specified period as subject to borrowing and collateral limits to the extent of the total outstanding obligation to repurchase. The total outstanding obligation to repurchase is an amount equal to (1) the outstanding loan balances at the time of sale, less (2) actual prepayments of mortgages in the pool, less (3) scheduled amortization ("repayments") as of the repurchase date. The calculation does not take into consideration anticipated loan prepayments. Further, the sale of loans other than mortgage loans subject to a repurchase obligation is not expressly treated by existing regulations, although by interpretation the sale of such loans subject to a repurchase obligation is treated as a secured borrowing.

By its action today, the Board expressly extends treatment as a borrowing to the sale of any type of loan or participation interest subject to a repurchase obligation, including home improvement, consumer and educational loans, as well as first mortgage loans. This action affords the sale of non-mortgage loans subject to a repurchase obligation more liberal treatment than under the current interpretation by permitting calculation of the amount of the borrowing using the alternative methods set forth below and providing for treatment of an obligation to repurchase at market value as a sale without recourse. The Board has monitored the development of secondary markets for home improvement, consumer and educational loans and encourages institutions to use these markets in order to raise lendable funds. In so doing, the Board believes that any loan sold subject to a repurchase obligation should be subject to the same borrowing and collateral limits.

In addition, the Board is providing an alternative method for calculating the amount of borrowing attributable to an institution by reason of repurchase obligations, by permitting an institution to treat as a borrowing the lesser of its (1) contractual repurchase obligation or (2) estimated repurchase obligation. The estimated repurchase obligation is defined initially as the outstanding loan balances at the time of sale less an amount equal to 5 percent of the outstanding loan balances at the time of sale for each full year from the date of sale until the repurchase date. An institution is required to review the actual repayment and prepayment performance of the loans annually, to adjust the estimated repurchase obligation according to actual performance, and to maintain adequate records to support any adjustment to the estimated repurchase obligation.

For example, if the outstanding loan balances at the time of sale are $100 million and the insured institution is required to repurchase all of the current and outstanding loans after ten years, the amount of the contractual repurchase obligation to be treated as a borrowing at the time of sale pursuant to the existing regulation is $100 million less scheduled amortization as of the repurchase date. The amended regulation permits an institution to treat the lesser of the contractual repurchase obligation or the estimated repurchase obligation as a borrowing. The estimated repurchase obligation in the example is $50 million (outstanding loan balances at time of sale less five percent of the balances for each year of the agreement: $100 million − (5% × $100 million × 10) = $50 million) and would be less than the contractual repurchase obligation. However, if the contractual repurchase obligation is to repurchase only up to twenty-five percent of the outstanding loan balances at the time of sale, the institution is permitted to treat only that amount ($25 million in the example) as a borrowing.

Further, the amended regulation requires the institution to make annual adjustments of the estimated repurchase obligation based on actual repayment and prepayment of loans. In the first example above, if actual repayments and prepayments in the first year of the repurchase term amount to $7 million, then the estimated repurchase obligation may be reduced to $48 million. On the other hand, if repayments and prepayments equal $3 million only, then the estimated repurchase obligation must be increased to $52 million.

Sale of Loans with Recourse

Section 563.23 of the Board's regulations (12 CFR 563.23) requires that all loans and participation interests in loans sold by an insured institution must be sold without recourse. Section 561.8 (12 CFR 561.8) defines "without recourse" in connection with the sale of any loan or interest therein, to mean

without any agreement or arrangement under which the purchaser is to be entitled (1) to receive from the seller any sum of money or thing of value, whether tangible or intangible (including any substitution), upon default in payment of any loan or mortgage involved, or any part thereof, or (2) to withhold or to have withheld from the seller any sum of money or any thing of value by way of security against any such default. In May of 1980, the Board amended the definition of "without recourse" to exclude any sale of mortgage loans through the issuance of mortgage-backed securities that provides for the seller to take a subordinate interest in part of the loans sold, if (a) the subordinate interest does not exceed 10 percent of the outstanding balance of the loans at the time of sale, and (b) a specified reserve is designated from net worth in an amount equal to 50 percent of the amount of the subordinate interest that does not exceed 5 percent of the original amount of the loans, plus 100 percent of the amount of the subordinate interest that exceeds 5 percent of the original amount of the loans.

By its action today, the Board eliminates the requirement that loans be sold through the issuance of mortgage pass-through securities for purposes of the up to 10 percent subordinate interest exclusion and extends the exclusion to the sale of any type of loan or loan participation interest. As noted above, secondary markets have developed for home improvement, consumer and educational loans, and the Board believes that sales of all types of loans and interests should be subject to similar regulatory treatment to the fullest extent possible. Today's action amends §§ 561.8 and 563.23 accordingly, placing the exclusion in § 563.23 rather than § 561.8.

In addition, the Board excludes from the requirement of sale without recourse any guarantee of up to 10 percent of the outstanding balance of any sold loans or interests therein at the time of sale, subject to the same specified reserve requirements as currently apply to a subordinate interest in sold loans. In expanding this exception to the general rule requiring the sale of loans without recourse, the Board further encourages insured institutions to use secondary loan markets to reduce interest rate risk and to generate additional lendable funds. At the same time, the Board maintains the safety and soundness of institutions' operations by requiring the establishment of specified reserves against the contingent liability of subordinate interest or guarantee of sold loans.

The purpose of a subordinate interest or guarantee is to reduce the credit risk to a purchaser of loans by allowing the selling institution to absorb a portion of the risk of defaulted loans. Because the risk to the purchaser is lowered, the required yield needed to sell the loans is lowered. The Board has reviewed the markets for the sale of loans and has determined that a mechanism which adequately can absorb losses up to 10 percent of the original amount of the loans is sufficient to attain the highest rating available from rating agencies. By its action today, the Board has granted institutions selling loans additional flexibility to choose the most appropriate risk reduction vehicle. This may be the purchase of private credit insurance or self-insurance through retention of up to a 10 percent subordinate interest or guarantee.

Lastly, the amendment also facilitates the participation of insured institutions in the FHA Section 244 Single-Family Home Mortgage Co-insurance Program, which requires originating lenders to assume and retain for five years liability for 10 percent of any loss on default for each loan originated. By excluding the guarantee of up to 10 percent of the principal balance of sold loans from the requirement of sale without recourse, the Board makes it possible for insured institutions to sell Section 244 loans in the secondary mortgage market generally and, in particular, to the Federal National Mortgage Association pursuant to its Section 244 purchase program.

Institutions should note that the Board's action today creates an exception to the requirement of sale without recourse only and that an institution is permitted to guarantee or retain a subordinate interest in sold loans only to the extent that is has the legal power to do so.

FSLIC Right of Purchase for GNMA Securities

The borrowing limitations adopted in May, 1980 (12 CFR 563.8), provide that for an outside borrowing in excess of one year that is secured by mortgage loans or mortgage-backed securities, the FSLIC must receive prompt written notice of any default on the obligation. In addition, before sale or other disposition of any portion of the collateral, the FSLIC must have 30 days after written receipt of notice of the sale or disposition to exercise a right to purchase such collateral at the price or value assigned to it in the proposed sale or disposition. The purpose of the right of purchase is to ensure that relatively illiquid collateral is not sold at substantially below its full market value by giving the FSLIC the option of purchasing the collateral and liquidating it at a more opportune time in order to gain full market value. The 30 day period gives the FSLIC an opportunity to evaluate the collateral and market conditions prior to exercising its right of purchase.

By its action today, the Board extends the FSLIC right of purchase to any outside borrowing in excess of one year that is secured by any type of loan. This is in further recognition of the development of secondary markets in loans other than first mortgage loans.

In addition, the Board limits the period for the FSLIC to exercise its right of purchase to 7 days for collateral in the form of Government National Mortgage Association ("GNMA") guaranteed single-family mortgage-backed securities. Since GNMA guaranteed single-family mortgage-backed securities are highly liquid and are traded in a well-established market, the FSLIC is able to evaluate this collateral and market conditions in less than 30 days. Since investors favor use of GNMA guaranteed single-family mortgage-backed securities as collateral, the Board has decided to relieve a possible disincentive to their use.

Review of Offering Circulars

The May, 1980, amendments require institutions to submit offering circulars for proposed debt securities to the Securities Division of the Board's Office of General Counsel for review prior to their use. The amendments further require offering circulars for securities with a minimum denomination of $10,000 unless they are sold in a private placement.

By its action today, the Board exempts securities with a maturity not exceeding one year from the offering circular and review requirements. Such securities currently are exempt from the requirement of review by the Board's Supervisory Agent prior to issuance, and inclusion within the offering circular and Securities Division review requirements was not intended.

The amendments adopted today relieve restrictions by granting greater flexibility to insured institutions to borrow funds and to sell investments in the secondary loan market. Therefore, the Board has determined that public notice and procedure under 5 U.S.C. 553(b) and 12 CFR 508.11 are unnecessary and contrary to the public interest with regard to these amendments, and that a 30-day delay of effective date under 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary for the same reasons.

Accordingly, the Board hereby amends Parts 545, 556, 561 and 563, Subchapters C and D, Chapter V, of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

§ 545.8–10 [Amended]

1. Amend § 545.8–10 by changing the reference to "§ 563.23" in paragraph (b) of that section to "§ 563.23(a)."

PART 556—STATEMENTS OF POLICY

§ 556.10 [Removed]

2. Remove § 556.10.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

§ 1.5561.8 [Amended]

3. Amend § 561.8 by removing the second sentence thereof.

PART 563—OPERATIONS

4. Amend § 563.8 by revising paragraph (c)(2); revising paragraph (f)(2); and amending paragraph (j) by redesignating subparagraphs "(2)," "(3)" and "(4)" as subparagraphs "(3)," "(4)" and "(5)," respectively, revising existing subparagraph (1) and redesignated subparagraph (5), and adding a new subparagraph (2); to read as follows:

§ 563.8 Borrowing limitations.

* * * * *

(c) *Limitations on secured borrowings.*

* * * * *

(2) For an outside borrowing with an original maturity in excess of one year that is secured by any loans or interests therein or mortgage-backed securities, the terms of such borrowing shall provide that the Corporation receive prompt written notification of any default on the obligation and, before a sale or other disposition of any portion of the collateral, that the Corporation shall have thirty days after written receipt of notice of such proposed sale or other disposition, or in the event that the collateral consists of Government National Mortgage Association guaranteed single-family mortgage-backed securities seven days after written receipt of notice of such proposed sale or other disposition, to exercise a right to repurchase such collateral at the price to be paid at such sale or to acquire such collateral at the value to be assigned to it in such other disposition.

* * * * *

(f) *Minimum denominations of securities evidencing outside borrowings.*

* * * * *

(2) *Exceptions.* (i) There is no minimum denomination for securities:

(*a*) issued in a private placement to institutional investors;

(*b*) constituting evidence of a borrowing from a commercial bank; or

(*c*) complying with § 531.12 of this Chapter and evidencing an obligation maturing in less than 90 days to repurchase direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof.

(ii) The minimum denomination may be $10,000, if the securities are not offered or sold at any office of the institution or any of its affiliates, and

(*a*) they are not sold to more than 35 persons or offered by any advertisement, including any broadcast or written communication published in a newspaper, magazine or similar medium, or by any letter, circular or other written communication sent, given or communicated to more than 35 persons who prior to such communication have not indicated an interest in purchasing the securities, and any purchases by such persons are for their own account and not with a view to distribution; or

(*b*) prior to or simultaneously with any offering, and prior to issuance, purchasers of such securities have been furnished an offering circular which conforms to the requirement of paragraphs (g) and (h) of this section; or

(*c*) the maturity of the securities does not exceed one year.

* * * * *

(j) *Sale and repurchase of loans or loan participations.* (1) An agreement for the sale by an insured institution of any loans or interests therein that provides that the selling institution will repurchase at par all of the loans or interests outstanding at a future date, up to a specified portion of the outstanding balance of the loans or interests at the time of sale, for purposes of paragraph (b) and subparagraph (c)(3) of this section shall be treated as a borrowing to the extent of the lesser of (i) the contractual repurchase obligation or (ii) the estimated repurchase obligation: *provided*, that the institution is required to repurchase only current and outstanding loans or interests, and the agreement does not provide for mandatory substitution of collateral.

(2) The estimated repurchase obligation for purposes of subparagraph (j)(1) of this section shall be equal to the outstanding loan balances at the time of sale less an amount equal to 5 percent of such balances for each full year from the date of sale until the repurchase date up to 50 percent of the outstanding loan balances at the time of sale. An insured institution shall adjust the estimated repurchase obligation annually to the extent that the actual repayments and prepayments of the loans or interests therein exceed or are less than 5 percent per year for each preceding year, and shall maintain adequate records to support any adjustment in the repurchase obligation treated as a borrowing. * * *

(5) If the agreement described in subparagraph (j)(1) of this section provides for repurchase of loans or interests therein at market value, the transaction shall be treated as a sale without recourse.

5. Amend § 563.8–3 by redesignating subparagraphs "(1)" and "(2)" of paragraph (a) as subparagraphs "(3)" and "(4)," respectively, and adding new subparagraphs (1) and (2); and revising paragraph (b); to read as follows:

§ 563.8–3 Distribution of maturities of liabilities.

(a) *Definitions.* * * *

(1) The term "commitment for borrowing" means any written commitment to lend money to the institution (including commitments for advances from a Federal Home Loan Bank or a State-chartered central reserve institution) on or before a date and at an interest rate specified in the commitment.

(2) The term "commitment for sale of an investment" means any written commitment to purchase an investment from the institution (including any commitment to purchase a loan or interest therein) on or before a date and at a price specified in the commitment.

* * * * *

(b) *General.* If, by incurring a liability, an insured institution causes the aggregate of its liabilities maturing in any consecutive three months, less the amount at the time it incurs such liability of (1) the institution's liquid assets, (2) any commitment for borrowing at a date within such three-month period, and (3) any commitment for sale of an investment at a date within such three-month period, to exceed an amount equalling 30 percent of the institution's total assets, the institution shall provide to the Principal Supervisory Agent notification as prescribed in paragraph (c) of this section. No institution shall incur any liability that will cause its aggregate liabilities maturing in any consecutive three months, less the items described in subdivisions (1), (2), and (3) of this

paragraph at the time it incurs such liability, to exceed an amount equalling 40 percent of the institution's total assets, unless the institution has obtained prior approval of the Corporation under paragraph (d) of this section. Any item which qualifies as both a liquid asset and either a commitment for borrowing or a commitment for sale of an investment shall be included only once in determining whether the limitations of this paragraph apply.

§ 563.9–4 [Amended]

6. Amend § 563.9–4 by changing the reference to "§ 563.23" in paragraph (b) of that section to "§ 563.23(a)."

7. Amend § 563.23 by revising and designating the current text as paragraph (a) and adding a new paragraph (b), to read as follows:

§ 563.23 Prohibition of sale with recourse.

(a) *General rule.* All loans and participation interests in loans sold by an insured institution shall be sold without recourse.

(b) *Exceptions.* The prohibition of paragraph (a) of this section notwithstanding, to the extent that it has legal power to do so an insured institution may:

(1) engage in mortgage transactions with Federally-chartered secondary market agencies as provided in § 545.8–10 of this Chapter and § 563.9–4 of this Part; and

(2) sell any loans or interests therein where the agreement of sale provides for the institution directly or indirectly (i) to hold or retain a subordinate interest in a specified percentage of the loans or interests or (ii) to guarantee against loss up to a specified percentage of the loans or interests, which specified percentage shall not exceed 10 percent of the outstanding balance of the loans or interests at the time of sale: *Provided,* That the institution designates a specific reserve from its net worth equal to one-half the amount of its subordinate interest or guarantee that does not exceed 5 percent of the outstanding balance of the loans or interests at the time of sale plus the total amount of its subordinate interest or guarantee in excess of 5 percent of the outstanding balance of the loans or interests at the time of sale.

(Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-6183 Filed 2-23-81; 8:45 am]

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CIVIL AERONAUTICS BOARD

14 CFR Part 398

[Docket No. 34650; Amdt. No. 2 of Part 398]

Guidelines for Individual Determinations of Essential Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: The CAB modifies its essential air service guidelines to make clear that it will not rigidly apply its 50-percent load factor standard, but may guarantee a number of flights to a community on the basis of a slightly different standard when circumstances warrant it. This action is taken in response to comments from the Commuter Airline Association and Frontier Airlines, and the CAB's experience under the Small Community Air Service Program.

DATES: Adopted: February 19, 1981. Effective: February 24, 1981.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, (202) 673–5408; or David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673–5442.

SUPPLEMENTARY INFORMATION: Section 419 of the Federal Aviation Act (49 U.S.C. 1389) requires that the Board establish essential air service levels for communities that are eligible points and guarantee that those communities receive at least that level of service even if an airline must be paid a subsidy to provide it. To aid in the implementation of this provision, the Board added a new Part 398 to 14 CFR, *Guidelines for Individual Determinations of Essential Air Transportation.* That part sets forth guidelines that we use in evaluating the essential air service needs of each community.

When the part was first proposed (PSDR–59, 44 FR 27438, May 10, 1979), the Board tentatively concluded that, as a general matter, communities should be guaranteed enough flights to accommodate passengers there at a 65 percent load factor (the percentage of seats filled on a flight). This meant that if the average daily passenger boardings at a point were 16, for example, that community would be guaranteed 25 seats per day (16 divided by 0.65). When the rule was finally adopted (PS–87, 44 FR 52646, September 7, 1979), the Board expressed concern that a 65-percent load factor standard may be too high for air service to small communities. Although it adopted the 65 percent load factor standard at that time, the Board directed its Office of Economic Analysis (OEA) to examine the effect of that standard when small aircraft or linear routings were used in serving small communities.

The OEA study concluded that when the 65-percent load factor standard is employed, passenger access to reservations in markets served by small aircraft is dramatically lower than what is found in large-aircraft markets. OEA suggested that the load factor standard should be lowered to 50 or 55 percent for markets served by small aircraft.

Based on the findings of the study, the Board, by PS–89, 44 FR 65584, November 14, 1979, amended Part 398 to change the load factor standard to 50 percent. This had the effect of increasing the number of seats that the Board would guarantee to an eligible point. In the example above, the point averaging 16 passengers per day would now be guaranteed 32 seats per day. By PSDR–64, 44 FR (65583) November 14, 1979, issued at the same time, the Board invited comments on this amendment with a view to issuing a revised rule later if necessary.

Three comments were filed in response to the notice. Frontier Airlines opposed a 50-percent load factor standard because of concern that it would be rigidly applied. It stated that this standard made sense when small aircraft were used, but not when 50-seat aircraft were operated. Frontier claimed that a 50-seat aircraft cannot be operated economically at an average load factor of 50 percent, but needs at least 65 percent of its seats filled to be operated profitably. Frontier pointed out that the OEA study had shown that the chance of a passenger being denied a reservation decreases as the size of aircraft increases. It urged the Board to vary the load factor levels with aircraft size. It did not consider this approach to be unduly complex, as it would require only that the Board indicate in essential service orders that use of larger aircraft would reduce the total number of seats that would be required.

The Commuter Airline Association of America (CAAA) considered the 50-percent standard to be too low. It cited a study by Melvin A. Brenner and R. Dixon Speas which found that commuters need load factors of at least 59 percent in order to operate profitably.

Lowering the standard to 50 percent would, in CAAA's view, increase the need for subsidy and reduce the scheduling flexibility of airline management. It would also put an unsubsidized commuter airline in the difficult position of having to either increase its service at a point to meet the higher seat guarantee or compete with a subsidized carrier that the Board brings in to make up the service shortfall in that market. CAAA asked that the Board, in establishing a load factor standard, consider not only the likelihood that a given standard would result in passengers being denied reservations or boarding but also the possibility that that standard might be too low for profitable commuter operations, thereby increasing the government's subsidy bill. CAAA also questioned whether there was as much variation in demand in the small markets as in the large ones. When demand is relatively constant, there are no peak periods when a reservation would be hard to obtain even with higher load factors.

The Texas Aeronautics Commission also commented, but its views were directed toward the Board's implementation of the essential air service program in general rather than to the specific matter, the load factor standard, in issue here.

We agree with Frontier and CAAA that a 50-percent load factor standard may not make sense in all cases and our intention was not to apply it rigidly. In its study, OEA stated (page 22) that its data were "not sufficient for the purpose of fine tuning the load factor standards used in essential air service determinations." It did not find that a 50-percent load factor was the proper level for all communities. It merely found that a 65-percent load factor standard would usually be too high for essential air service determinations involving markets served by small aircraft and would usually result in more people being denied reservations or seats than in areas served by large carriers. As we have repeatedly emphasized, the provisions of Part 398 are merely guidelines that are used in evaluating the essential air service needs of individual communities. These needs vary from case to case. The load factor standard, like the other guidelines in Part 398, must be varied accordingly.

Although we remain committed to the 50-percent standard as a general guideline, there are several situations where the Board may deviate from it. For the reasons stated above by Frontier and CAAA, we may sanction higher load factors in some markets as larger aircraft are employed. As the size of the aircraft used increases, the chance that one would be denied a reservation or seat during peak travel periods diminishes. In those cases there is no reason to require the lower load factor. We may consider load factors above 50 percent justified if the aircraft used has more than eight seats. Of course, the increase in load factor we would sanction would depend on the increase in the size of aircraft employed.

The size of aircraft that a carrier operates at a point, when considered with the number of seats that the Board has guaranteed for that point, may also affect the load factor standard. For example, if a carrier proposes to operate 15-seat aircraft at a point for which the Board has guaranteed 32 seats per day, the Board would generally not require more than two flights per day with that aircraft. To provide the two additional seats with a third flight would be unnecessary and wasteful. Since the 32-seat guarantee would have been based on average daily enplanements of 16 passengers, the provision of two flights would still leave enough room for growth in the market and accommodation of all passengers at times of peak travel demand, even though the service would be provided at slightly more than a 50-percent load factor. Requiring a third flight with 15-seat aircraft would force the carrier to serve at unacceptably low load factors.

While finding another carrier with different-sized aircraft to provide the service would be another approach to this problem, that may not always be the best solution. Even if such a carrier were available, that carrier may not be as reliable or efficient or may not have community support. Varying the load factor guideline for the point involved would be consistent with the spirit of Part 398 and might be the most practical solution to the problem.

The nature of the service at the eligible point might also warrant the application of a different load factor standard there. If a point were an intermediate stop on a linear route to the designated hub, it might be impractical for a carrier to serve that point at the load factor that would usually be required. Nevertheless, we would require the carrier to accommodate traffic at the eligible point and would expect the community to inform us if the carrier were not meeting its obligation.

We are amending Part 398 to set forth some of the situations where the Board may deviate from the load factor guideline. This amendment will not require us to change existing essential air service determinations. It is only meant to clarify that the 50-percent load factor standard, like any other guideline in Part 398, may be altered for individual communities as circumstances warrant.

Since this rule is interpretative in nature, we find that it may take effect immediately.

Accordingly, the Board amends 14 CFR Part 398, *Guidelines for Individual Determinations of Essential Air Transportation*, as follows:

1. The authority for Part 398 is:

Authority: Secs. 204 and 419, Pub. L. 85-726, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389.

2. The Table of Contents is amended by adding a new § 398.9, to read:

Sec.

* * * * *

398.9 Load factor standard.

3. A new § 398.9 is added to read:

§ 398.9 Load factor standard.

The load factor guideline used in this part may be raised for individual eligible points under one or more of the following circumstances.

(a) The aircraft providing the essential air transportation there has more than eight seats;

(b) There is little likelihood that there will be periods of higher-than-normal demand for air transportation at that point;

(c) The number of seats on the aircraft operated at that point is not evenly divisible into the number of seats that the Board has guaranteed for that point;

(d) The point is served by the carrier as part of a linear route; or

(e) It would be in the interest of the community, the carrier, or the general public to increase the load factor standard for that point.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-6189 Filed 2-23-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

Blanket Waiver of Regulations for Specified Period

AGENCY: Federal Energy Regulatory Commission.

ACTION: Interpretation of final rule.

SUMMARY: On December 19, 1980, the Commission issued an order captioned "American Natural Gas Production

Company, *et al.*—Rate Schedule No. 51, *et al.*" which granted a blanket waiver of § 154.94(h)(2)(iii) of the Commission's regulations in Title 18 regarding the 30 day filing requirements for certain notices of change in rate. The Commission waived the requirements of that section to permit untimely filed notices of change in rate for sales of gas governed by Sections 102(d) and 108 of the Natural Gas Policy Act to become effective on either the date of final determination or the date of initial delivery, whichever is later. The Commission intended that the waiver apply to all sales of Section 102(d) and 108 gas for which notices of change in rate, filed pursuant to a final determination, are now on file with the Commission, or are filed within 60 days of the date of issuance of the above order (i.e., February 17, 1981). The Commission emphasized in the order that the waiver applies only to producers whose filings fall into the above categories and noted that all producers are expected to comply with the 30-day filing requirement in the future.

EFFECTIVE DATE: The Commission's interpretation is effective December 19, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, 202–357–8400.

Kenneth F. Plumb,

Secretary.

Notice of Commission Action Granting Blanket Waiver of § 154.94(h)(2)(iii) of the Regulations for Specified Period

Issued: December 19, 1980.

Take notice that on December 19, 1980, the Commission issued an order captioned "American Natural Gas Production Company, *et al.*—Rate Schedule No. 51, *et al.*" which granted a blanket waiver of § 154.94(h)(2)(iii) of the Commission's regulations regarding the 30 day filing requirements for certain notices of change in rate. The Commission waived the requirements of § 154.94(h)(2)(iii) in order to permit untimely filed notices of change in rate for sales of gas governed by Sections 102(d) and 108 of the NGPA to become effective on either the date of final determination or the date of initial delivery, whichever is later. The Commission intended that the waiver apply to all sales of Section 102(d) and 108 gas for which notices of change in rate, filed pursuant to a final determination, are now on file with the Commission, or are filed within 60 days of the date of issuance of the above order (i.e., February 17, 1981). The Commission emphasized in the order that the waiver applies only to producers whose filings fall into the above categories and noted that all producers are expected to comply with the 30-day filing requirement of § 154.94(h)(2)(iii) in the future.

Kenneth F. Plumb.

Secretary.

[FR Doc. 81-6108 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

[Docket No. 80N-0345]

Public Hearing Before a Public Advisory Committee; Advisory Committee Annual Reports

Correction

In FR Doc. 80-40284 appearing on page 85724 in the issue of Tuesday, December 30, 1980, on page 85725, first column, the "*Effective date*" at the bottom should read "December 30, 1980.", and the FR Doc. line should read as set forth below:

"[FR Doc. 80-40284 Filed 12-29-80; 8:45 am]".

BILLING CODE 1505-01-M

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21 CFR Part 131

[Docket No. 77N-0143]

Cultured and Acidified Milks, Cultured and Acidified Buttermilks, Yogurts, and Eggnog; Standards of Identity

Correction

In FR Doc. 81-3139, appearing at page 9924 in the issue for Friday, January 30, 1981, make the following corrections on page 9926 in the third column:

(1) In section 5.6, *Date marking*, in the next to last line "* * * date of minimum * * *" should have read "* * * date or minimum * * *".

(2) Section 5.7, *Lot identification*, should be followed by a double asterisk footnote reference "**".

(3) At the bottom of the column, the last footnote should be designated "***" instead of "**".

BILLING CODE 1505-01-M

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21 CFR Part 178

[Docket No. 80F-0169]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Antistatic and/or Antifogging Agents in Food-Packaging Materials

Corrections

In FR Doc. 80-40506 appearing on page 85726 in the issue of Tuesday, December 30, 1980, on page 85727, first column, paragraph (b) of § 178.3130, first column of the table, third line, "C_{10}–$_{18}$" should read "C_{10}–C_{18}"; and in the fifth line, "C_{14}–$_{18}$" should read "C_{14}–C_{18}".

BILLING CODE 1505-01-M

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21 CFR Part 510

Change of Sponsor Name; New Animal Drugs

Correction

In FR Doc. 80-40283 appearing on page 85727 in the issue of Tuesday, December 30, 1980, third column, the "*Effective date*" should read "December 30, 1980.".

BILLING CODE 1505-01-M

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21 CFR Part 510

New Animal Drugs; Change of Sponsor

Correction

In FR Doc. 81-3951, appearing on page 10462 in the issue for Tuesday, February 3, 1981, in the middle column, in the second paragraph of the "Supplementary Information", in the seventh line, "42 FR 64357" should have read "42 FR 64367".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 15A

[T.D. 7768]

Temporary Income Tax Regulations; Installment Sales—General Rules

Correction

In FR Doc. 81-4141 appearing at page 10708 in the issue for Wednesday, February 4, 1981, make the following corrections on page 10718, in the third column:

(1) In paragraph (5) (§ 15A.453-1(d)(5)), in the 16th and 17th lines, "February 19, 1981" should have read "May 5, 1981".

(2) In the same paragraph, in the last line, "February 19, 1981", should have read "May 5, 1981".

BILLING CODE 1505-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2608

Allocation of Assests in Non-Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; amendment.

SUMMARY: This document amends the final rule published in the **Federal Register** on January 28, 1981 as FR Doc. 81-2982 (46 FR 9480) to defer the effective date of 29 CFR Part 2608 to April 1, 1981. This action is necessary to comply with a Memorandum from the President of the United States, Ronald Reagan, on the Postponement of Pending Regulations. This action will prevent confusion concerning the effective date of the final rule on Allocation of Assets in Non-Multiemployer Plans.

EFFECTIVE DATE: The effective date of Part 2608 published at 46 FR 9480, as corrected at 46 FR 10720, February 4, 1981 is April 1, 1981.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-4895.

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") published its final regulation on Allocation of Assets in Non-Multiemployer Plans, 29 CFR Part 2608, at 46 FR 9480, and corrected at 46 FR 10720, February 4, 1981 to become effective March 1, 1981. On January 29, 1981, President Ronald Reagan issued a memorandum (46 FR 11227), requesting that executive agencies, by notice published in the **Federal Register**, postpone for at least 60 days from the date of the memorandum the effective date of all regulations scheduled to become effective during that time period. The PBGC is publishing such a notice; however, without an amendment to FR Doc. 81-2982, 46 FR 9480, January 28, 1981, as corrected at 46 FR 10720, confusion as to the effective date of the final regulation, 29 CFR Part 2608, will arise. Therefore, in order to change the effective date, FR Doc. 81-2982 is amended by changing "March 1" to "April 1" on page 9480, first column, "EFFECTIVE DATE" paragraph; on page 9482, third column, first full paragraph, line 9 as corrected at 46 FR 10720, February 4, 1981; on page 9485, third column, first full paragraph, line 2; and on page 9489, third column, fourth full paragraph "*Effective date*", line 2.

Issued at Washington, D.C. on this 17th day of February 1981.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-6155 Filed 2-23-81; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2610

Valuation of Plan Benefits in Non-Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; Interim rule with request for comments; amendment.

SUMMARY: This document amends the final and interim rules published in the **Federal Register** on January 28, 1981 as FR Doc. 81-2983 (46 FR 9492) to defer the effective date of 29 CFR Part 2610 to April 1, 1981. This action is necessary to comply with a Memorandum from the President of the United States, Ronald Reagan, on the Postponement of Pending Regulations. This action will prevent confusion concerning the effective date of the final and interim rules on Valuation of Plan Benefits in Non-Multiemployer Plans.

EFFECTIVE DATE: The effective date of Part 2610 published at 46 FR 9492 is April 1, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-3010.

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") published its final regulation on Valuation of Plan Benefits in Non-Multiemployer Plans, including an interim rule with request for comments, 29 CFR Part 2610, at 46 FR 9492, to become effective March 1, 1981. On January 29, 1981, President Ronald Reagan issued a memorandum (46 FR 11227) requesting that executive agencies, by notice published in the **Federal Register**, postpone for at least 60 days from the date of the memorandum the effective date of all regulations scheduled to become effective during that time period. The PBGC is publishing such a notice; however, without an amendment to FR Doc. 81-2983, 46 FR 9492, January 28, 1981, confusion as to the effective date of the final and interim rules, 29 CFR Part 2610, will arise. Therefore, in order to change the effective date, FR Doc. 81-2983 is amended by changing "March 1" to "April 1" on page 9492, first column, "DATES" paragraph, lines 1 and 3; on page 9498, first column, first full paragraph (§ 2610.1(b)), line 7; and on page 9517, third column, fifth full paragraph "*Effective date.*"

Issued at Washington, D.C. on this 17th day of February 1981.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-6156 Filed 2-23-81; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2613

Employer Liability for Single Employer Plan Terminations; Rules Pertaining to Withdrawals From and Terminations of Plans To Which More Than One Employer Contributes Other Than Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; amendment.

SUMMARY: This document amends the final rule published in the **Federal Register** on January 28, 1981 as FR Doc. 81-2984 (46 FR 9520) to defer the effective date of 29 CFR Part 2613 to April 1, 1981. This action is necessary to comply with a Memorandum from the President of the United States, Ronald Reagan, on the Postponement of Pending Regulations. This action will prevent confusion concerning the effective date of the final rule on Employer Liability for Single Employer Plan Terminations; Rules Pertaining to Withdrawals From and Terminations of Plans to Which More Than One Employer Contributes Other Than Multiemployer Plans.

EFFECTIVE DATE: The effective date of Part 2613 published at 46 FR 9520 is April 1, 1981.

FOR FURTHER INFORMATION CONTACT: David Weingarten Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-3010.

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") published its final regulation on Employer Liability for Single Employer Plan Terminations; Rules Pertaining to Withdrawals From and Terminations of Plans to Which More Than One

Employer Contributes Other Than Multiemployer Plans, 29 CFR Part 2613, at 46 FR 9520, to become effective March 1, 1981. On January 29, 1981, President Ronald Reagan issued a memorandum (46 FR 11227) requesting that executive agencies, by notice published in the **Federal Register**, postpone for at least 60 days from the date of the memorandum the effective date of all regulations scheduled to become effective during that time period. The PBGC is publishing such a notice; however, without an amendment to FR Doc. 81-2984, 46 FR 9520, January 28, 1981, confusion as to the effective date of the final regulation, 29 CFR Part 2613, will arise. Therefore, in order to change the effective date, FR Doc. 81-2984 is amended by making the following changes on page 9520:

1. Change "March 1" to "April 1" in first column, "EFFECTIVE DATE" paragraph, lines 2, 5, and 16;

2. In second column, under "Purpose and Scope" lines 15 and 16, substitute "April 1, 1981" for "30 days after publication in the **Federal Register**"; and

3. In second column, under "Purpose and Scope", second paragraph, lines 16 and 17, substitute "April 1, 1981" for "30 days after publication of this regulation."

Issued at Washington, D.C. on this 17th day of February 1981.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-6157 Filed 2-23-81; 8:45 am]

BILLING CODE 7708-01-M

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29 CFR Part 2613

Employer Liability for Single Employer Plan Terminations; Rules Pertaining to Withdrawals From and Terminations of Plans to Which More Than One Employer Contributes Other Than Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; correction.

SUMMARY: This document corrects the Part heading for 29 CFR Part 2613 published in the **Federal Register** on January 28, 1981 (46 FR 9520).

DATES: The effective date of Part 2613 published at 46 FR 9520 is April 1, 1981.

FOR FURTHER INFORMATION CONTACT: David Weingarten, Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street, NW., Washington, D.C. 20006, 202-254-3010.

SUPPLEMENTARY INFORMATION: In FR Doc. 81-2984 appearing at page 9520, January 28, 1981, on page 9526, first column, change the Part heading to read: Part 2613—Employer Liability for Single Employer Plan Terminations; Rules Pertaining to Withdrawals From and Terminations of Plans to Which More Than One Employer Contributes Other Than Multiemployer Plans.

Issued at Washington, D.C. on this 17th day of February 1981.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-6158 Filed 2-23-81; 8:45 am]

BILLING CODE 7708-01-M

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29 CFR Part 2615

Determination of Plan Sufficiency and Termination of Sufficient Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; amendment.

SUMMARY: This document amends the final rule published in the **Federal Register** on January 28, 1981 as FR Doc. 81-2985 (46 FR 9532) to defer the effective date of 29 CFR Part 2615 to April 1, 1981. This action is necessary to comply with a Memorandum from the President of the United States, Ronald Reagan, on the Postponement of Pending Regulations. This action will prevent confusion concerning the effective date of the final rule on Determination of Plan Sufficiency and Termination of Sufficient Plans.

EFFECTIVE DATE: The effective date of Part 2615 published at 46 FR 9532, as corrected at 46 FR 10720 (February 4, 1981), is April 1, 1981.

FOR FURTHER INFORMATION CONTACT: Joan Segal, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-3010.

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") published its final regulation on Determination of Plan Sufficiency and Termination of Sufficient Plans, 29 CFR Part 2615, at 46 FR 9532, to become effective March 1, 1981. On January 29, 1981, President Ronald Reagan issued a memorandum (46 FR 11227) requesting that executive agencies, by notice published in the **Federal Register**, postpone for at least 60 days from the date of the memorandum the effective date of all regulations scheduled to become effective during that time period. The PBGC is publishing such a notice; however, without an amendment to FR Doc. 81-2985, 46 FR 9532, January 28, 1981, as corrected at 46 FR 10720 February 4, 1981, confusion as to the effective date of the final regulation, 29 CFR Part 2615, will arise. Therefore, in order to change the effective date, FR Doc. 81-2985 is amended by changing "March 1" to "April 1" on page 9532, first column, "EFFECTIVE DATE" paragraph; and on page 9541, second column, first full paragraph *"Effective date"*, lines 2, 5, and 16.

Issued at Washington, D.C. on this 17th day of February 1981.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-6159 Filed 2-23-81; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 369

[DOD Directive 5105.2] [1]

Delegation of Authority to Deputy Secretary of Defense

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule delegates authority to the Deputy Secretary of Defense granting him full power and authority to act for the Secretary of Defense. It is being incorporated into this title in compliance with 5 U.S.C. 552(a)(1) and 1 CFR 305.76-2.

EFFECTIVE DATE: February 5, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Becker, Office of the Deputy Assistant Secretary of Defense (Administration), Organizational and Management Planning, Washington, D.C. 20301, Telephone: 202-697-1143.

SUPPLEMENTARY INFORMATION: In FR Doc. 80-15869 appearing in the **Federal Register** on May 23, 1980 (45 CFR 34880) the Office of the Secretary of Defense published PART 369. This revision of PART 369 delegates authority to the present Deputy Secretary of Defense.

Accordingly, 32 CFR, Chapter I, is

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

amended by revising PART 369, reading as follows:

PART 369—DELEGATION OF AUTHORITY TO DEPUTY SECRETARY OF DEFENSE

Sec.
369.1 Reissuance.
369.2 Purpose.

Authority: 10 U.S.C. 133.

§ 369.1 Reissuance.

This Rule is reissued and updated.

§ 369.2 Purpose.

(a) In accordance with Title 10, U.S.C., Section 133(d), I hereby delegate to Deputy Secretary of Defense Frank C. Carlucci full power and authority to act for the Secretary of Defense and to exercise the powers of the Secretary of Defense upon any and all matters concerning which the Secretary of Defense is authorized to act pursuant to law.

(b) The authority delegated herein may not be redelegated.

(10 U.S.C. 133)

M. S. Healy,
Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.
February 19, 1981.

[FR Doc. 81-5847 Filed 2-23-81; 8:45 am]
BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY

[AS-FRL 1759-3]

40 CFR Part 162

Deferral of Effective Dates; Correction

AGENCY: Environmental Protection Agency.

ACTION: Notice of deferral of effective dates; correction.

SUMMARY: Pursuant to the President's order of January 29, 1981, on February 12, 1981 EPA published a notice deferring until March 30, 1981 the effective dates of certain listed EPA regulations. See 46 FR 11972. Today's notice corrects an error in the deferral list.

FOR FURTHER INFORMATION CONTACT: Faith Halter, Special Assistant to the General Counsel, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202/755-0709.

SUPPLEMENTARY INFORMATION: The list published on February 12 incorrectly described a final rule on State registration of pesticides to meet local needs promulgated under the Federal Insecticide, Fungicide and Rodenticide Act as affecting 40 CFR 162.150-162.155. This rule also affects 40 CFR 162.156. The February 12 listing for this rule is corrected to read:

CFR part affected	FR citation	Subject matter	Old effective date	New effective date
40 CFR 162.150-162.156	46 FR 2008 (1/7/81)	Federal Insecticide, Fungicide, and Rodenticide Act. State Registration of Pesticides to Meet Local Needs.	No sooner than 60 calendar days of continuous session of current Congress from date of promulgation (3/9/81).	3/30/81

Dated: February 18, 1981.

Walter C. Barber,
Acting Administrator.

[FR Doc. 81-6178 Filed 2-23-81; 8:45 am]
BILLING CODE 6560-36-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5996]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, DC. 20410

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Proection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Alabama	Baldwin	Daphne, city of	010005B	Feb. 21, 1975, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	June 7, 1974 Aug. 15, 1975	Mar. 2, 1981.
Do	Madison	Owens Cross Roads, town of	010218A	Aug. 6, 1974, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	June 25, 1976	Do.
Arkansas	Benton	Rogers, city of	050013B	June 12, 1975, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	May 24, 1974 Feb. 27, 1976	Do.
Illinois	Will	Crete, village of	170700B	May 21, 1975, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	April 12, 1974 June 18, 1976	Do.
Do	Lake	Green Oaks, village of	170364B	Mar. 12, 1974, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	March 8, 1974 July 2, 1976	Do.
Do	Kane	Hampshire, village of	170327B	Jan. 14, 1976, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	May 3, 1974 Mar 26, 1976	Do.
Do	Lake	Kilder, village of	170371B	Mar. 21, 1975, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	May 17, 1974 Feb. 20, 1976	Do.
Do	do	Tower Lakes, village of	170393C	May 9, 1975, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	Apr 5, 1974 Dec. 27, 1974 Mar 5, 1976	Do.
Indiana	Hamilton	Noblesville, city of	180082D	June 12, 1975, emergency, Mar 2, 1981, regular, Mar. 2, 1981, suspended.	May 24, 1974 June 25, 1976 Sept. 16, 1977 Aug. 4, 1978	Do.
Iowa	Benton	Vinton, city of	190016B	July 18, 1974, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	Apr 5, 1974 Jan. 23, 1976	Do.
Do	Bremer	Waverly, city of	190030B	May 2, 1975, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	Mar 29, 1974 Apr 30, 1976	Do.
Kansas	Butler	Unincorporated areas	200037B	June 23, 1975, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	Feb. 21, 1978	
Do	Douglas	do	200087B	May 30, 1975, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	June 17, 1977	Do.
Do	do	Lawrence, city of	200090A	June 15, 1973, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	Aug. 13, 1976	Do.
Do	Jefferson	Perry, city of	200153B	Apr. 21, 1975, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	Dec. 7, 1973 Dec. 26, 1975	Do.
Kentucky	Scott	Stamping Ground, city of	210261A	Apr. 28, 1976, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	Jan. 3, 1975	Do.
Louisiana	Rapids Parish	Cheneyville, town of	220148B	May 27, 1975, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	May 17, 1974 Oct. 24, 1975	Do.
Do	do	Lecompte, city of	220150B	July 21, 1975, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	May 17, 1974 Jan. 16, 1976	Do.
Do	Acadia Parish	Mermentau, village of	220006B	Jan. 12, 1976, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	Nov. 23, 1973 Nov. 14, 1975	Do.
Do	do	Rayne, city of	220008B	Aug. 27, 1974, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	Mar 29, 1974 Mar 5, 1976	Do.
Maryland	Baltimore	Unincorporated areas	240010B	Mar. 24, 1972, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	Apr 18, 1975 June 4, 1976	Do.
Michigan	Eaton	Delta, charter township of	260066C	Dec. 5, 1974, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended.	Sept. 13, 1974 July 16, 1976 Dec. 23, 1977	Do.
Do	Wayne	Plymouth, township of	260237B	Aug. 6, 1975, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	Aug. 9, 1975 Oct. 17, 1975	Do.
Minnesota	Clay	Barnesville, city of	270078B	May 2, 1974, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	May 10, 1974 June 4, 1976	Do.
Do	Anoka	Fridley, city of	270013B	Jan. 21, 1974, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	May 17, 1974 May 14, 1976	Do.
Do	Clay	Glyndon, city of	270083B	Sept. 26, 1975, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	May 17, 1974 July 16, 1976	Do.
Do	Fillmore	Mabel, city of	270127B	Apr. 15, 1974, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	May 17, 1974 June 4, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Do	Goodhue	Pine Island, city of	270145B	Sept. 4, 1974, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	May 24, 1974 Aug. 8, 1976	Do.
Do	St. Louis	Proctor, city of	270425B	Nov. 21, 1974, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	Apr. 5, 1974 Mar. 19, 1976	Do.
Do	Morrison	Randall, city of	270002B	Mar. 19, 1975, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	June 7, 1974 July 23, 1976	Do.
Do	Anoka	St. Francis, city of	270017B	Sept. 29, 1975, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	June 28, 1974 Apr. 11, 1975	Do.
Nebraska	Lancaster	Bennet, village of	310251A	Aug. 3, 1976, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	Apr. 25, 1975	Do.
New Jersey	Sommerset	Hillsborough, township of	340436B	June 18, 1974, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	July 26, 1974 Jan. 14, 1977	Do.
Do	Burlington	Mount Laurel, township of	340107B	Feb. 18, 1972, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	Jan. 9, 1974 Aug. 6, 1976	Do.
New Mexico	Guadalupe	Santa Rosa, city of	350024B	June 11, 1975, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	May 31, 1974 Apr. 9, 1976	Do.
New York	Cayuga	Auburn, city of	360102C	Feb. 16, 1973, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	Nov. 28, 1973 Mar. 26, 1976 Dec. 24, 1976	Do.
Oklahoma	Tulsa	Glenpool, town of	400208C	Feb. 6, 1975, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	June 28, 1974 May 28, 1976 June 20, 1978	Do.
Pennsylvania	Lycoming	Brown, township of	420636B	May 11, 1973, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	Aug. 9, 1974 Nov. 14, 1975	Do.
Do	York	Carroll, township of	422216A	Sept. 16, 1974, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	Jan. 3, 1975	Do.
Do	Lycoming	Moreland, township of	421846A	June 15, 1976, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	Feb. 28, 1975	Do.
Texas	Hunt	Commerce, city of	480366B	Apr. 10, 1975, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	Mar. 8, 1974 Sept. 10, 1976	Do.
Do	Fort Bend, Harris, and Waller	Katy, city of	480301C	Feb. 13, 1975, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	June 28, 1974 July 9, 1976 Jan. 24, 1978	Do.
Vermont	Chittenden	Williston, town of	500043B	July 17, 1975, emergency, Mar. 16, 1981, regular, Mar. 2, 1981, suspended.	Mar. 15, 1974 Mar. 4, 1977	Do.
Wisconsin	Outagamie	Black Creek, village of	550584A	Nov. 13, 1975, emergency, Mar 16, 1981, regular, Mar. 2, 1981, suspended.		Do.

[1] Date certain Federal assistance no longer available in special flood hazard areas.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: February 16, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-5908 Filed 2-23-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 64

[Docket No. FEMA 5997]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at

protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Alabama	Jefferson County	Brownville, city of	010270	750916 emerg., 810116 reg	780615
Alabama	Jefferson County	Midfield, city of	010127	750411 emerg., 810116 reg	740614
California	Los Angeles County	Whittier, city of	060169	750728 emerg., 810116 reg	740628
Connecticut	Middlesex County	Deep River, town of	090062	730330 emerg., 810116 reg	731228
Connecticut	Fairfield County	Stamford, city of	090015	720310 emerg., 810116 reg	740602
Delaware	Sussex County	Bethel, town of	100055	760122 emerg., 810116 reg	750117
Delaware	Sussex County	Blades, town of	100031	750530 emerg., 810116 reg	740607
Delaware	Sussex County	Laurel, town of	100040	750402 emerg., 810116 reg	740607
Florida	Pinellas County	Kenneth City, town of	120245	740806 emerg., 810116 reg	740628
Florida	Wakulla County	Wakulla county [1]	120315	730521 emerg., 810116 reg	750214
Illinois	Cook County	Broadview, village of	170067	750307 emerg., 810116 reg	740322
Illinois	Champaign County	Champaign, city of	170026	750606 emerg., 810116 reg	740503
Illinois	Cook County	Hinsdale, village of	170105	750422 emerg., 810116 reg	740201
Illinois	Cook County	Palos Hills, city of	170143	740904 emerg., 810116 reg	740322
Illinois	Champaign County	Urbana, city of	170035	750203 emerg., 810116 reg	740503
Illinois	Du Page County	Westmont, village of	170220	750423 emerg., 810116 reg	740517
Illinois	Lake County	Zion, city of	170399	740524 emerg., 810116 reg	740329
Iowa	Sioux County	Hawarden, city of	190252	740923 emerg., 810116 reg	740524
Iowa	Clay County	Spencer, city of	190071	750626 emerg., 810116 reg	760716
Iowa	Story County	Story City, city of	190259	750625 emerg., 810116 reg	740531
Kansas	Douglas County	Eudora, city of	200089	750612 emerg., 810116 reg	740109
Maryland	Dorchester County	Cambridge, city of	240098	750812 emerg., 810116 reg	741018
Maryland	Dorchester County	Hurlock, town of	240112	750918 emerg., 810116 reg	770121
Michigan	Genesee County	Fenton, city of	260075	740830 emerg., 810116 reg	761001
Michigan	Genesee County	Fenton, township of	260394	780324 emerg., 810116 reg	770401
Michigan	Ottawa County	Grand Haven, township of	260270	731009 emerg., 810116 reg	740802
Michigan	Muskegon County	White River, township of	260299	740621 emerg., 810116 reg	761006
Minnesota	Hennepin County	Corcoran, city of	270155	750908 emerg., 810116 reg	740607
Missouri	Pemiscot County	Caruthersville, city of	290275	740327 emerg., 810116 reg	740329
Missouri	Reynolds County	Ellington, city of	290312	750123 emerg., 810116 reg	740329
Missouri	St. Francois County	Farmington, city of	290323	740625 emerg., 810116 reg	740301
Missouri	St. Louis County	Grantwood Village, town of	290355	740520 emerg., 810116 reg	740308
Missouri	St. Louis County	Kinloch, city of	290361	750718 emerg., 810116 reg	740109
Missouri	St. Louis County	Oakland, city of	290373	750605 emerg., 810116 reg	741101
Missouri	St. Louis County	Shrewsbury, city of	290386	741219 emerg., 810116 reg	740329
Nebraska	Washington County	Arlington, village of	310227	750611 emerg., 810116 reg	731217
Nebraska	Douglas County	Douglas County [1]	310073	741115 emerg., 810116 reg	740726
Nebraska	Sarpy County	Sarpy County [1]	310190	730223 emerg., 810116 reg	770422
Nevada	Clark County	North Las Vegas, city of	320007	730606 emerg., 810116 reg	740215
New Jersey	Warren County	Phillipsburg, town of	340493	720128 emerg., 810116 reg	730413
New Jersey	Passaic County	Wanaque, borough of	340409	740612 emerg., 810116 reg	740517
New Jersey	Monmouth County	West Long Branch, borough of	340334	741101 emerg., 810116 reg	730824
New Jersey	Passaic County	West Milford, township of	340411	750428 emerg., 810116 reg	740719
North Dakota	Pembina County	Crystal, city of	380062	750715 emerg., 810116 reg	740913
North Dakota	Walsh County	Grafton, city of	380137	750117 emerg., 810116 reg	740123
North Dakota	Walsh County	Minto, city of	380138	750627 emerg., 810116 reg	770318
Ohio	Summit County	Barberton, city of	390524	740913 emerg., 810116 reg	740524
Ohio	Cuyahoga County	Brecksville, city of	390098	750711 emerg., 810116 reg	740208
Ohio	Clermont County	Chilo, village of	390067	750120 emerg., 810116 reg	780723
Ohio	Erie County	Erie County [1]	390153	760220 emerg., 810116 reg	750131
Ohio	Summit County	Fairlawn, city of	390657	751229 emerg., 810116 reg	740329
Ohio	Hamilton County	Milford, village of	390227	750415 emerg., 810116 reg	740208
Ohio	Summit County	Norton, city of	390529	750702 emerg., 810116 reg	740315
Ohio	Franklin County	Obetz, village of	390176	780323 emerg., 810116 reg	740215
Ohio	Lake County	Willoughby, city of	390322	750612 emerg., 810116 reg	731130
Pennsylvania	Lancaster County	Adamstown, borough of	420541	731204 emerg., 810116 reg	740412
Pennsylvania	Lancaster County	Bart, township of	421761	750610 emerg., 810116 reg	740906
Pennsylvania	Berks County	Caernarvon, township of	421055	741126 emerg., 810116 reg	740628
Pennsylvania	Lancaster County	Colerain, township of	421765	750917 emerg., 810116 reg	740920
Pennsylvania	Chester County	Malvern, borough of	420281	740620 emerg., 810116 reg	761203
Pennsylvania	Montgomery County	Narberth, borough of	421903	740830 emerg., 810116 reg	741220
Pennsylvania	Allegheny County	Oakmont, borough	420060	740725 emerg., 810116 reg	740906
Pennsylvania	Lancaster County	Quarryville borough	420563	740925 emerg., 810116 reg	740109
Pennsylvania	Allegheny County	Verona, borough of	422611	741213 emerg., 810116 reg	740531
South Carolina	Berkeley County	Moncks Corner, town of	450031	750701 emerg., 810116 reg	740524
South Dakota	Moody County	Flandreau, city of	460062	740913 emerg., 810116 reg	750926

State	County	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Texas	Gregg County	Gladewater, city of	480262	741101 emerg., 810116 reg	740301
Texas	Bexar County	Terrell Hills, city of	480048	720908 emerg., 810116 reg	740517
Vermont	Chittenden County	Essex, town of	500034	750708 emerg., 810116 reg	761203
West Virginia	Mingo County	Williamson, city of	540138	750402 emerg., 810116 reg	740531
Wisconsin	Crawford County	De Soto, village of	550069	801215 emerg., 810116 reg	740802
California	Los Angeles County	Burbank, city of	065018	701002 emerg., 810123 reg	740719
Ohio	Knox County	Gambier, village of	390310	760203 emerg., 810130 reg	760723
Pennsylvania	Bucks County	Hilltown, township of	420189	721006 emerg., 810130 reg	740801

[1]Unincorporated areas. Total is: 74.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: February 9, 1981.

Richard Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-5913 Filed 2-23-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 5998]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Federal Insurance Administration, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATES: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction of buildings in these areas unless the community has entered the program. The denial of such financial assistance has no application outside of the identified special flood hazard areas of such flood-prone communities.

Prior to July 1, 1975, the statutory requirement for the purchase of flood insurance did not appy until and unless the community entered the program and the special flood hazard areas were identified by the issuance of a flood insurance map. However, after July 1, 1975, or one year after identification, whichever is later, the requirement applies to all communities in the United States that are identified as having special flood hazard areas within their community boundaries, so that, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Insurance Administration's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). An FHBM is usually designated by the letter "E" following the community number and a FIRM by the letter "R" following the community number. If the FIA withdraws an FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but an FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR Part 59 et seq.).

As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication. Accordingly, Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations is amended as follows:

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).*

The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 5149
40 FR 17015
40 FR 20798
40 FR 46102
40 FR 53579
40 FR 56672
41 FR 1478
41 FR 50990
41 FR 13352
41 FR 17726
42 FR 8895
42 FR 29433
42 FR 46226
42 FR 64076
43 FR 24019
44 FR 815
44 FR 6383
44 FR 18485
44 FR 25638
44 FR 34120
44 FR 52835
44 FR 57094
44 FR 12421
44 FR 26051
44 FR 31316
44 FR 34120
45 FR 49570
45 FR 52385
46 FR 13695

(b) *Flood Insurance Rate Maps (FIRM's)*

The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 17015	43 FR 24019
41 FR 1478	44 FR 25636
42 FR 49811	44 FR 12421
42 FR 64076	45 FR 49570

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made Pursuant to § 65.6:

State	Community name and No.	County	Hazard ID date	Rescission date	Reason
Illinois	Town of La Praire, 170760E	Adams	Apr. 25, 1975	Jan. 29, 1981	1
Iowa	City of Kelly, 190748E	Story	Nov. 19, 1976	do	1
Missouri	City of Billings, 290757E	Christian	June 27, 1975	do	1
Do	Village of Revere, 290083E	Clark	Jan. 10, 1975	do	1
Nebraska	City of Alexandria, 310243E	Taylor	Sept. 12, 1975	do	1
Do	Town of Burchard, 310169E	Pawnee	Nov. 8, 1974	do	1
Do	City of Bruning, 310253E	Thayer	Jan. 31, 1975	do	1
Do	Village of Burr, 310161E	Otoe	Dec. 6, 1974	do	1
Do	Village of Chester, 310261E	Thayer	Aug. 6, 1976	do	1
Do	Village of Dorchester, 310271E	Saline	Mar. 26, 1976	do	1
Do	City of Gretna, 310375E	Sarpy	Aug. 6, 1976	do	1
Do	Village of Milligan, 310303E	Fillmore	July 9, 1976	do	1
Do	City of Oak, 310159E	Nuckoll	Nov. 15, 1974	do	1
Do	City of Steinauer, 310171E	Pawnee	Nov. 22, 1974	do	1
Do	City of Western, 310333E	Saline	Nov. 19, 1976	do	1
Ohio	Township of Margaretta, 390596E	Erie	June 21, 1974	do	4
Pennsylvania	City of New Alexandria, 420669A	Westmoreland	Oct. 17, 1975	do	1
California	City of LaVern, 060133E	Los Angeles	Mar. 4, 1977	do	1
Nebraska	City of Ohiowa, 310081E	Fillmore	Nov. 8, 1974	do	1

Key to Symbols

E—The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.
R—The community is participating in the Regular Program.
1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
2. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
3. The Flood Hazard Boundary Map (FHMB) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.
4. The community lacked land-use authority over the special flood hazard area.
5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.). A new FHBM will be prepared and distributed.
6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.
7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.
8. The T&E or H&E Map was rescinded.
9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.
10. Miscellaneous.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: February 9, 1981.

Richard Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-5914 Filed 2-23-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-5999]

Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with Minimal Flood Hazard Areas.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be

purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State and county	Community name	Date of conversion to regular program
Indiana, Lake County.	City of Whiting	Mar. 6, 1981.
Oregon, Lane County.	City of Dunes City	Mar. 24, 1981.

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

Issued: February 10, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-5003 Filed 2-23-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii Call Toll Free (800) 424–9080), Federal Emergency Mangement Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Madison County (unincorporated areas) (FEMA–5895).	Flint River	100 feet upstream of center of Hobbs Island Road	*578
			100 feet west of west end of Sneed Avenue	*585
		Boer Fork Flint River	50 feet downstream of Old Dam	*675
			100 feet upstream of center of Moores Mill Road	*692
		Beaverdam Creek	100 feet downstream of U.S. Highway 231/431	*718
		Indian Creek	50 feet upstream of center of Southern Railway Bridge	*615
			Intersection of Creek and center of State Route 72	*669
	Maps available for inspection at Madison County Courthouse, Huntsville, Alabama.			
California	Monterey (City), Monterey County (FEMA–5920).	El Estero Lake	Intersection of Camino El Estero and Del Monte Avenue	*9
		Josselyn Canyon Creek	400 feet west along Garden Drive from its intersection with Garden Avenue.	*12
		Arroyo Del Rey	Intersection of Toyon Avenue and English Avenue	*14
	Maps available for inspection at Public Works, City Hall, Monterey, California.			
California	Seaside (City), Monterey County (FEMA–5920).	Arroyo Del Ray	Northern side of intersection of stream and Southern Pacific Railroad	*13
			Approximately 50 feet south of the intersection of stream and Kolb Avenue.	*25
	Maps available for inspection at Community Development Department, 440 Harcourt Avenue, Seaside, California.			
Florida	Bay County (unincorporated areas) (FEMA–5920).	Econfina Creek	600 feet upstream from center of Scott Road	*129
		Sweetwater Creek	50 feet upstream from center of County Road	*146
		Juniper Creek	100 feet downstream from center of Atlanta and St. Andrews Bay Railroad.	*155
		Bear Creek	Intersection of Creek and center of State Highway 167	*8
			200 feet upstream from center of Bear Creek Road	*31
			150 feet upstream from center of U.S. Highway 231	*132
		Little Bear Creek	200 feet upstream from center of State Highway 386	*50
		Little Bear Creek Tributary	50 feet upstream from center of U.S. Highway 231	*55
		Double Branch	600 feet upstream from confluence with Little Bear Creek	*56
		Clear Creek	300 feet upstream from center of Camp Flowers Road	*14
		Bayou George	Intersection of Bayou George and U.S. Highway 75	*8
		Mill Bayou	50 feet upstream from center of Atlanta and St. Andrews Bay Railroad.	*11
		Mill Bayou Tributary	Intersection of Avon Road and Wheat Road	*33
		Callaway Creek	1,000 feet downstream from confluence with Reedy Creek (at upstream limit of detailed study).	*28

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Deer Point Lake	Area upstream (north) of Deer Point Dam—State Highway 77A	*8
		Gulf of Mexico	Intersection of Vista Drive and 13th Street (West of City of Panama City Beach).	*9
			Area southwest of the intersection of U.S. Highway 98 and George Wallace Boulevard.	*10
		St. Andrews Bay	Intersection of Wahoo Drive and Perry Street	*9
		West Bay	Intersection of Big Daddy Drive and Wildwood Drive	*9
		North Bay	Intersection of Michigan Avenue and Iowa Street	*9
			Intersection of North Bay Drive and Harvard Street	*8
		East Bay	At Bull Point	*7
			At Davis Point	*8
			At Laird Point	*9
		Lake Martin	Lake shoreline east of U.S. Highway 98	*10
Maps are available for inspection at several locations: Bay County Public Library; 25 W. Government St., Panama City, Florida; Callaway City Hall, Callaway, Florida; Panama City Beach City Hall, Panama City Beach, Florida; Walker Elementary School, Youngstown, Florida; Quickway No. 4, C167 and Bayhead Road, Panama City, Florida; Quickway No. 3, Intersection of State Highway 77 and 77A, Panama City, Florida.				
Florida	Clay County (unincorporated areas) (FEMA-5902).	Black Creek	100 feet downstream of the intersection of County Road 209 and Black Creek.	*10
			100 feet upstream of the intersection of County Road 209 and Clarkes Creek.	*8
		Clarkes Creek	200 feet upstream of the intersection of U.S. Highway 17 (State Highway 15) and Clarkes Creek.	*27
		Double Branch	At the junction of North and South Prongs Double Branch forming Double Branch.	*32
		Governors Creek	150 feet upstream of the intersection of State Highway 16 (Idlewild Avenue) and Governors Creek.	*9
		Little Black Creek	Intersection of State Highway 21 (Blanding Boulevard) and County Road 220 A.	*10
		Little Black Creek Tributary No. 1.	200 feet downstream of the intersection of Branan Field Road and Little Black Creek Tributary No. 1.	*24
		Little Black Creek Tributary No. 2.	200 feet downstream of the intersection of Shindler Road and Little Black Creek Tributary No. 2.	*18
		Long Branch	Intersection of State Highway 217 and Long Branch	*65
		North Fork Black Creek	1,300 feet Northwest along Lazy Acre Road from its intersection with Red Bug Alley.	*15
			100 feet upstream of the intersection of State Highway 218 and North Fork Black Creek.	*66
		North Fork Black Creek Tributary No. 1.	200 feet upstream of the intersection of County Road 220 and North Fork Black Creek Tributary No. 1.	*15
		North Fork Black Creek Tributary No. 2.	1,750 feet upstream from confluence with North Fork Black Creek Tributary No. 1.	*17
		North Prong Double Branch	Intersection of Dirt Road (at River Mile 0.57) and North Prong Double Branch.	*40
		Ortega River	Downstream side of State Highway 21 (Blanding Boulevard) over Ortega River.	*9
		Peters Creek	200 feet downstream of the intersection of Rosemary Hill Road (County Road 3158) and Peters Creek.	*12
		St. Johns River	Intersection of Castle Point Court and Creighton Road (Alternate State Route 15).	*6
		St. Johns River Tributary No. 1	Upstream side of Seaboard Coast Line Railroad over St. Johns River Tributary No. 1.	*9
		St. Johns River Tributary No. 2	Intersection of County Road 209 and St. Johns River Tributary No. 2	*7
		St. Johns River Tributary No. 3 (Backwater From St. Johns River).	200 feet downstream of the intersection of County Road 209 and St. Johns River Tributary No. 3.	*8
		South Fork Black Creek	Intersection of Michaelwood and Thunder Roads	*38
		South Fork Black Creek Tributary No. 1.	Intersection of North Kentucky Road and South Fork Black Creek Tributary No. 1.	*40
		Swimming Pen Creek (Backwater From St. Johns River).	Intersection of State Highway 220 and Swimming Pen Creek	*6
		Brooklyn Lake	Immokolee Road Crossing on the north shore of Brooklyn Lake	*118
		Lake Johnson	3,000 feet west along State Highway 214 from its intersection with County Road 315.	*106
		Kingsley Lake	0.8 mile south along Alabama Avenue from its intersection with State Highway 16.	*178
Maps available for inspection at Public Works Department, Clay County Courthouse, Green Cove Springs, Florida.				
Florida	Town of Hastings, St. Johns County (FEMA-5911).	St. Johns River	Intersection of Church Avenue (State Road 207) with western corporate limits.	*6
		Deep Creek	Intersection of Church Avenue and Orange Street	*7
Maps available for inspection at Town Hall, 401 Main Street, Hasting, Florida 32045.				
Florida	Kenneth City (Town), Pinellas County (FEMA-5886).	Joe Creek	Intersection of 62nd Street North and 43rd Avenue North	*18
			Intersection of Joe Creek Drive and 56th Street	*23
Maps available for inspection at 4600 58th Street North, Kenneth City, Florida.				
Florida	City of Kissimmee, Osceola County (FEMA-5926).	Shingle Creek	Just upstream of S.R. 530	*79
		Mill Slough	Just upstream of Mill Slough Road	*65
		East City Canal	Just upstream of U.S. 441	*60
			Just upstream of U.S. 17-92	*66

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Vine Street	*69
		West City Canal	Just upstream of U.S. 17-92	*63
			Just upstream of Patrick Street	*64
			Just downstream of Oak Street	*66
Maps available for inspection at City Hall, 101 North Church Street, Kissimmee, Florida 32741.				
Georgia	City of Bloomingdale, Chatham County (FEMA-5927).	Pipemakes Canal	Just downstream of Adams Road	*19
		Hardin Canal	Just downstream of Waller Road	*19
Maps available for inspection at City Hall, Highway 80 and Adams Road, Bloomingdale, Georgia 30302.				
Georgia	City of Darien, McIntosh County (FEMA-5927).	Darien River	Just upstream of Highway 17	*11
		Cathead Creek	At confluence point of Darien River and Cathead Creek	*12
Maps available for inspection at City Hall, Highway 17, Darien, Georgia 31305.				
Illinois	(V), Banner, Fulton County (Docket No. FEMA-5911).	Copperas Creek	At the downstream corporate limits	*455
			Approximately 260 feet downstream of U.S. Route 24	*455
			At the upstream corporate limits	*457
Maps available for inspection at the Banner Village Hall, R.R. No. 3, Canton, Illinois 61520.				
Illinois	(C), Havana, Mason County (Docket No. FEMA-5920).	Illinois River	About 0.75 mile downstream of U.S. Route 136	*454
			About 1.2 miles upstream of U.S. Route 136	*454
Maps available for inspection at the City Hall, 227 West Main Street, Havana, Illinois 62644.				
Illinois	(V), Lake Villa, Lake County (Docket No. FEMA-5920).	Eagle Creek	At western corporate limit	*772
			About 100 feet downstream of Monaville Road	*779
			Just downstream of Cedar Lake Road	*782
			About 300 feet upstream of Cedar Lake Road	*783
		East Branch of Eagle Creek	Mouth at Eagle Creek	*778
			About 100 feet downstream of Cedar Lake Road	*785
			About 350 feet upstream of Cedar Lake Road	*789
		North Branch of Eagle Creek	Mouth at Eagle Creek	*784
			About 360 feet upstream of mouth at Eagle Creek	*786
		North Shore Drain	Just upstream State Route 83	*789
			About 1,900 feet upstream State Route 83	*789
		Lake Villa Creek	Mouth at Deep Lake	*780
			Just downstream State Route 83	*783
			At confluence of South Branch of Lake Villa Creek	*790
		South Branch of Lake Villa Creek	Mouth at Lake Villa Creek	*790
			About 2,150 feet upstream of mouth at Lake Villa Creek	*790
		Cedar Lake	Shoreline	*791
		Deep Lake	Shoreline	*780
		Sun Lake	Shoreline	*779
Maps available for inspection at the Office of the Mayor, Village Hall, 65 Cedar Avenue, P.O. Box 176, Lake Villa, Illinois 60046.				
Illinois	(C), Lebanon, St. Clair County (Docket No. FEMA-5920).	Silver Creek	At downstream corporate limits	*441
			At upstream corporate limits	*442
		Little Silver Creek	About 400 feet downstream of the Chessie System	*440
			About 2,400 feet upstream of U.S. Route 50	*444
Maps available for inspection at the Office of the Mayor, City Hall, 312 West St. Louis Street, Lebanon, Illinois 62254.				
Illinois	(V), Mundelein, Lake County (Docket No. FEMA-5920).	Diamond Lake Drain	About 1,600 feet downstream State Route 60	*719
			About 550 feet upstream Diamond Lake Road	*742
		Soavey Drainage Ditch	Just upstream Butterfield Road	*706
			About 450 feet upstream Seymour Avenue	*725
		Bull Creek	About 4,050 feet downstream St. Mary's Seminary Road	*715
			Just downstream Loch Lomond Dam	*737
			Just upstream Loch Lomond Dam	*741
			Just upstream Banbury Avenue	*748
			Just downstream Park Dam	*751
			Just upstream Park Dam	*762
			About 2,000 feet upstream Midlothian Boulevard	*798
			About 4,000 feet upstream Midlothian Boulevard	*799
Maps available for inspection at the Village Administrator's Office, Village Hall, 440 East Hawley, Mundelein, Illinois 60060.				
Indiana	(T), Alexandria, Madison County (Docket No. FEMA-5920).	Alexandria Creek	Confluence with Pipe Creek	*853
			About 75 feet upstream South Harrison Street	*856
			About 2,100 feet upstream Eleventh Street	*861
		Pipe Creek	Just upstream 100 West Road	*848
			Just upstream Conrail	*852
			Just downstream South Harrison Street	*854
			Northeastern corporate limits	*858
Maps available for inspection at the Town Hall, 125 North Wayne Street, Alexandria, Indiana 46001.				
Indiana	(C), Decatur, Adams County (Docket No. FEMA-5920).	St. Mary's River	Downstream corporate limit	*788
			Just upstream Monmouth Road	*789
			Just upstream Monroe Street	*790
			Upstream corporate limit	*791

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Holthouse Ditch	About 1,100 feet upstream of mouth	*788
			At upstream corporate limit	*788
		Borum Run	At mouth	*791
			At upstream corporate limit	*791
		Kohne Ditch	Just upstream of Beal Drive	*788
			Approximately 100 feet upstream Industrial Drive	*802
			Just downstream Conrail	*803
		Koos Ditch	At mouth	*789
			Just upstream Highway 224	*789
Maps available for inspection at the Office of the Mayor, City Hall, 225 West Monroe Street, Decatur, Indiana 46733.				
Iowa	(C), Burlington, Des Moines County (Docket No. FEMA-5911).	Flint Creek	Mouth at Mississippi River	*535
			About 1,050 feet upstream of the Chicago, Rock Island and Pacific Railroad.	*535
			About 1,500 feet upstream Tama Road	*538
		Mississippi River	Downstream corporate limits	*533
			Upstream corporate limits	*535
		Tributary A	About 3,040 feet downstream Plane Street (just upstream of proposed Gunnison Street).	*584
			About 1,360 feet downstream Plane Street (about 700 feet upstream of proposed Remick Street).	*584
			Just downstream Plane Street	*601
			Just upstream Plane Street	*604
			Just downstream Division Street	*608
			Just upstream Division Street	*613
			About 520 feet upstream of Division Street	*613
			At confluence of Tributary B	*617
		Tributary B	Just downstream Division Street	*620
			Just upstream Division Street	*629
			About 420 feet upstream of Division Street	*631
			About 920 feet upstream Division Street	*636
Maps available for inspection at the City Hall, Burlington, Iowa 52601.				
Iowa	(C), Clarinda, Page County (Docket No. FEMA-5920).	North Branch	At confluence with Nodaway River	*986
			Approximately 1,200 feet upstream from North Sixteenth Street (just upstream foot bridge).	*1,015
			About 0.6 mile upstream North Sixteenth Street	*1,018
		Tributary to North Branch	At the confluence of North Branch	*993
			Approximately 3,100 feet upstream North Sixteenth Street	*1,051
		Nodaway River	About 1.2 miles downstream U.S. Highway 71	*975
			Northern corporate limit	*987
Maps available for inspection at the City Hall, 200 South 15th Street, Clarinda, Iowa 51632.				
Kentucky	City of Frankfort, Franklin County (FEMA-5911).	Kentucky River	Just upstream of Broadway St	*508
			At the East-West Connector (State Highway 676)	509
		Benson Creek (Backwater from Kentucky River).	Just upstream Bald Knobb Road	*508
Maps available for inspection at Office of Planning and Zoning, City Hall, 315 W. Second Street, Frankfort, Kentucky 40601.				
Kentucky	Kenton County (unincorporated areas) (FEMA-5920).	Ohio River	Intersection of River Road and Haywood Road	*496
		Pleasant Run Creek	80 feet upstream from center of Bromley Road	*500
			50 feet upstream from center of Pleasant Run Pike	*728
		Pleasant Run Creek Tributary	20 feet upstream from center of private bridge crossing	*573
		Licking River	Intersection of Licking River and Interstate Highway 275	*504
		Banklick Creek	On Whitaker Road, 100 feet west of intersection with Madison Pike	*511
		Fowler Creek	50 feet upstream from center of State Highway 17 (Madison Pike)	*555
			100 feet upstream from center of Petty Road	*713
		Thompson Branch	50 feet upstream from center of State Highway 1486 (Fowler Creek Road).	*779
		Brushy Fork	At City of Independence Southern Corporate Limits	*797
		Decoursey Creek	175 feet east of the intersection of Kenton Road and Old Decoursey Pike.	*541
Maps available for inspection at City-County Office Building, Covington, Kentucky.				
Kentucky	City of Middlesboro, Bell County (FEMA-5927).	Stoney Fork	Just upstream of Wilson Lane	*1,175
			Just upstream of Louisville and Nashville Railroad	*1,218
		Bear's Fork	Just upstream of State Highway 441	*1,205
		Bennett's Fork	Just upstream of State Highway 441	*1,134
			Just upstream of 35th Street (State Highway 1599)	*1,159
		Yellow Creek	Just upstream of State Highway 441	*1,133
			Just downstream of 30th Street (Peters Borough Avenue)	*1,136
		Little Yellow Creek	Approximately 630 feet upstream of U.S. Highway 25E	*1,134
Maps available for inspection at City Hall, 20th and Lothbury Street, Middlesboro, Kentucky 40965.				
Louisiana	Town of Coushatta, Red River Parish (FEMA-5912).	Channel 1	Just upstream of Coushatta Red Oak Road (State Highway 410)	*133
			Just upstream of U.S. Highway 84	*140

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Channel 2	Approximately 350 feet upstream of confluence with Channel 1	*142
		Channel 3	Approximately 650 feet upstream of confluence of Channel 5	*142
		Channel 4	Approximately 150 feet upstream of confluence with Channel 1	*141
		Channel 5	Approximately 400 feet upstream of confluence with Channel 3	*142
Maps available for inspection at City Hall, Alonzo Street, Coushatta, Louisiana 71019.				
Massachusetts	Boylston, Town, Worcester County (Docket No. FEMA-5815).	Sewall Brook	Sewall Pond Outlet	*400
			Upstream of YMCA culvert	*407
			Downstream of Sewall Street	*416
			Approximately 0.145 mile upstream of Sewall Street	*430
			Approximately 0.27 mile upstream of Sewall Street	*440
			Approximately 0.168 mile downstream of Old Stone Dam	*449
			Downstream of Old Stone Dam	*461
			Upstream of Old Stone Dam	*471
			Approximately 0.01 mile downstream of New England Telephone Company culvert.	*481
			Downstream of New England Telephone Company culvert	*485
			Upstream of New England Telephone Company culvert	*495
			Approximately 65' upstream of New England Telephone Company culvert.	*497
		Cold Harbor Brook	Downstream Corporate Limits	*400
			Confluence of Rawson Hill Brook	*408
			Upstream of Reservoir Road	*412
			Approximately 0.202 mile upstream of Reservoir Road	*424
			Approximately 0.281 mile upstream of Reservoir Road	*437
			Approximately 0.325 mile upstream of Reservoir Road	*448
Maps available for inspection at the Planning Board, Municipal Building, Boylston, Massachusetts.				
Massachusetts	Brookfield, Town, Worcester County (Docket No. FEMA-5886).	Dunn Brook	Upstream of Quaboag Street	*607
			Upstream of Conrail	*609
			Approximately 1,550' downstream from Slab City Road (Extended)	*612
			Upstream Corporate Limits	*616
		Quaboag	Downstream Corporate Limits	*605
			Confluence of Quaboag Pond	*606
		Quaboag Pond	Entire shoreline within community	*606
		Quacumquasit Pond	Entire shoreline within community	*606
Maps available for inspection at the Town Clerk's Office, Town Hall, Central Street, Brookfield, Massachusetts.				
Massachusetts	East Bridgewater, Town, Plymouth County (Docket No. FEMA-5817).	Beaver Brook	Upstream side of Elm Street	*65
			Upstream side of Summer Street	*80
			Approximately 3,120' upstream of Summer Street	*94
		Black Brook	Approximately 500' downstream of Central Street	*54
			Upstream side of Central Street	*58
			Approximately 1,000' upstream of Central Street	*59
		Meadow Brook	Upstream side of North Central Street	*41
			Downstream side of dam	*43
			Upstream side of State Route 18 (Downstream crossing)	*49
			Upstream side of Water Street	*51
			Approximately 3,800' upstream of Water Street	*64
			Upstream side of Highland Street	*75
			Downstream side of State Route 18 (Upstream crossing)	*75
		Tributary to Meadow Brook	Confluence with Meadow Brook	*75
			Upstream Corporate Limits	*75
		Satucket River (Plymouth vicinity).	Approximately 700' downstream of dam	*34
			Upstream of dam	*40
			Approximately 900' upstream of Dam	*41
		Satucket River (Washington Street-Pond Street Area).	Confluence with Black Brook	*40
			Downstream side of Pond Street	*43
Maps available for inspection at the Selectmen's Office, Town Hall, East Bridgewater, Massachusetts.				
Massachusetts	(C), Gardner, Worcester County (Docket No. FEMA-5912).	Otter River	About 475 feet downstream confluence of Bailey Brook (at downstream corporate limit).	*894
			Just downstream of Turner Street	*900
			Just downstream of Otter River Dam	*904
			Just upstream of Otter River Dam	*914
			Just upstream of West Broadway Street	*922
			About 160 feet upstream confluence of Mahoney Brook (at upstream corporate limit).	*923
		Perley Brook	At confluence with Otter River	*918
			Just downstream of Parker Pond Dam	*959
			Just upstream of Parker Pond Dam	*968
			Just downstream of Perley Brook Reservoir lower dam	*978
			Just upstream of Perley Brook Reservoir lower dam	*986
			At downstream end of Clark Street culvert	*987
			Just upstream of Clark Street	*1,026
			About 100 feet downstream of abandoned railroad bridge	*1,036
			Just upstream of abandoned railroad bridge	*1,044
			Just upstream of Stone Street bridge	*1,054
			Just downstream Wheeler Street	*1,054
		Pond Brook	At confluence with Otter River	*923
			Just downstream of Mancia Drive	*952
			Just upstream of Mancia Drive	*962

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of Risley Street bridge	*982
			Just upstream of Risley Street	*985
			About 940 feet upstream of Risley Street	*987
			About 980 feet upstream of Risley Street	*992
		Mahoney Brook	At confluence with Otter River	*923
			Just downstream of Mahoney Brook Dam	*947
			Just upstream of Mahoney Brook Dam	*953
			Just downstream of Ramsdale Pond Dam	*992
			Just upstream of Ramsdale Pond Dam	*1,000
			Just upstream of footbridge (upstream of Winter Street)	*1,012
			Just downstream of Travers Street	*1,014
			Just upstream of Travers Street	*1,019
			Just upstream of covered bridge	*1,029
			About 0.4 mile upstream Partridge Road (downstream of dirt road culvert).	*1,061
			Just upstream of dirt road culvert	*1,067
			Just upstream of Partridge Road (upstream crossing)	*1,073
		Wilder Brook	At confluence with Perley Brook	*966
			Just upstream of Keyes Road bridge	*973
			Just upstream of Clark Street bridge	*981
			About 800 feet upstream of Clark Street bridge	*961
		Baker Brook	At confluence with Mahoney Brook	*1,000
			Just upstream of Union Street	*1,003
			Just downstream of Providence and Worcester Railroad	*1,003
			Just upstream of Providence and Worcester Railroad	*1,009
			About 0.17 mile upstream of Baker Brook Dam	*1,009
		Foster Brook	At confluence with Mahoney Brook	*1,025
			Just upstream of Temple Street	*1,046
			Just downstream of Murdock Pond Dam	*1,048
			Just upstream of Murdock Pond Dam	*1,065
			Just upstream of Betty Springs Road	*1,093
			About 500 feet upstream of Betty Springs Road	*1,094
			About 550 feet upstream of Betty Springs Road	*1,102
		Greenwood Brook	At confluence with Mahoney Brook	*1,052
			About 160 feet upstream of Partridge Street	*1,052
	Maps available for inspection at the City Clerk's Office, City Hall, Gardner, Massachusetts 01440.			
Massachusetts	Hinsdale, Town, Berkshire County (Docket No. FEMA-5853).	Bennett Brook	Upstream Middlefield Road (lower crossing)	*1,445
			Upstream Private Drive	*1,448
			850' downstream of Middlefield Road (middle crossing)	*1,460
			400' downstream of Middlefield Road (middle crossing)	*1,470
			Downstream Middlefield Road (middle crossing)	*1,482
			Upstream Middlefield Road (middle crossing)	*1,487
			800' upstream of Middlefield Road (middle crossing)	*1,495
			75' upstream of East Washington Road	*1,505
			Confluence of Tracy Brook	*1,509
			50' downstream of Middlefield Road (upper crossing)	*1,513
		East Branch Housatonic River	Downstream Corporate Limits	*1,319
			100' downstream of Old Dalton Road	*1,339
			Confluence of Hinsdale Brook	*1,348
			Walsh Road (Extended)	*1,360
			Upstream State Route 8 (lower crossing)	*1,371
			350' upstream of State Route 8 (lower crossing)	*1,379
			700' upstream of State Route 8 (lower crossing)	*1,390
			450' downstream of Arch Bridge	*1,400
			Downstream Arch Bridge	*1,413
			Upstream Arch Bridge	*1,420
			Upstream Main Street	*1,428
			Upstream Maple Street	*1,431
			Downstream State Route 8 (upper crossing)	*1,433
		Hinsdale Brook	30' upstream of Private Crossing	*1,349
			450' upstream of Private Crossing	*1,360
			800' upstream of Private Crossing	*1,370
			1,175' upstream of Private Crossing	*1,380
	1,150' downstream of Old Dalton Road (second crossing)			*1,390
			850' downstream of Old Dalton Road (second crossing)	*1,401
			700' downstream of Old Dalton Road	*1,410
			250' downstream of Old Dalton Road	*1,420
			Downstream Old Dalton Road	*1,424
	Maps available for inspection at the Office of the Town Clerk and at the Kittridge Public School, Hinsdale, Massachusetts.			
Massachusetts	Holden, Town, Worcester County (Docket No. FEMA-5841).	Quinapoxet River	Approximately 0.373 mile downstream from River Street	*560
			Upstream side of River Street	*567
			Downstream side of Wachusett Street	*575
			Approximately 0.217 mile upstream from Wachusett Street	*579
		Governors Brook	Area of flooding around Poutwater Pond	*695
	Maps available for inspection at the Office of the Town Clerk, Holden, Massachusetts.			
Massachusetts	New Marlborough, Town, Berkshire County (Docket No. FEMA-5912).	Lake Buel	Entire Shoreline within Community	*913
		Konkapot River	Approximately 150' downstream Mill River-Southfield Road	*815
			Downstream Granite Block Dam	*830

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Granite Block Dam	*840
			Downstream Mill River-Great Barrington Road	*850
			Upstream Mill River-Great Barrington Road	*867
			Upstream Hartsville-Mill River Road	*896
			Upstream Adsit Crosby Road	*908
			Confluence of Lake Buel Tributary	*913
			Upstream State Route 57	*922
			Approximately 1,250' upstream State Route 57	*950
			Upstream Corporate Limits	*1,002
	Maps available for inspection at the New Marlborough Town Hall, Mill River, Massachusetts.			
Massachusetts	North Adams, City, Berkshire County (Docket No. FEMA-5912).	Bowerman Creek	Approximately 1,000' downstream of Church Street	*715
			Approximately 200' downstream of Church Street	*725
			Approximately 40' upstream of Church Street	*735
			Approximately 150' upstream of Church Street	*745
		Hoosic River	Downstream Corporate Limits	*611
			Approximately 300' upstream of Ashton Avenue	*619
			Downstream of Barber Dam	*624
			Upstream of Barber Dam	*629
			Upstream of State Route 2 (lower crossing)	*635
			Biltmore Avenue (extended)	*639
			Confluence of Notch Brook	*644
			Upstream of State Route 2 (upstream crossing)	*652
			Upstream of B&M Railroad	*660
			Fairgrounds Avenue (extended)	*670
			Upstream of Brown Street	*680
		North Branch Hoosic River	Magnolia Terrace (extended)	*685
			Upstream of Marshal Street	*695
			Upstream of Holden Street	*701
			Downstream of Eagle Street	*715
			Upstream of Lower Union Street	*726
			Approximately 800' upstream of Lower Union Street	*738
			Upstream of Upper Union Street	*750
			Approximately 500' upstream of Upper Union Street	*760
			Downstream of Hoosic Cotton Mill Dam	*770
			Upstream of Hoosic Cotton Mill Dam	*787
			Upstream of Eclipse Dam	*826
			Upstream of weir (approximately 950' downstream from Beaver Street).	*837
			Upstream of Beaver Street (lower crossing)	*840
			Downstream of Beaver Street (upper crossing)	*857
			Bluff Street (extended)	*865
			End of Crest Street	*880
			Upstream Corporate Limits	*891
		Notch Brook	70' upstream face of Barbour Street extension culvert	*658
			Upstream of spillway	*671
			Pershing Street (extended)	*680
			Downstream of Notch Road	*692
		South Branch Hoosic River	Upstream of Sprague Bridge No. 1	*686
			Upstream of East Main Street	*691
			Upstream of Boston & Maine Yard Road	*701
			Upstream of Hunter Foundry Road	*711
			Confluence of Bowerman Creek	*715
			Upstream Corporate Limits	*721
	Maps available for inspection at Town Court, 10 Main Street, North Adams, Massachusetts.			
Massachusetts	Pepperell, Town, Middlesex County (Docket No. FEMA-5780).	Reedy Meadow Brook	Confluence with Nashua River	*183
			Shawnee Road (Upstream)	*183
			Lowell Road (Upstream)	*186
			Leighton Road (Upstream)	*188
			Upstream Corporate Limits	*202
		Nissitissit River	Mill Street (Upstream)	*184
			Unnamed Dam 1,900 feet upstream from Mill Street (Downstream)	*192
			Unnamed Dam 1,900 feet upstream from Mill Street (Upstream)	*200
			Prescott Street (Upstream)	*210
		Nashua River	Massachusetts State Line	*177
			Confluence of Reedy Meadow Brook	*183
			Confluence of Nissitissit River	*183
			Boston & Maine Railroad (Upstream)	*183
			Groton Street	*184
			Pepperell Pond Dam (Downstream)	*185
			Pepperell Pond Dam (Upstream)	*203
			Upstream Corporate Limits	*208
	Maps available for inspection at the Town Hall, Pepperell, Massachusetts.			
Massachusetts	Plainville, Town, Norfolk County (Docket No. FEMA-5780).	Ten Mile River	Downstream Corporate Limits	*191
			Downstream of Witherells Place	*192
			Upstream of Witherells Pond Dam	*199
			Downstream of Plainville Pond Dam	*203
			Upstream of Plainville Pond Dam	*206
			Downstream of Fuller Street	*210

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Fuller Dam	*215
		Brook No. 1	Downstream Corporate Limits	*162
			Downstream of Interstate 495	*163
			Upstream of Interstate 495	*165
			Confluence with Rabbit Hill Pond	*172
		Turtle Brook	Mirimichi Street	*163
			Upstream of Dam	*171
			250 feet upstream confluence of Sawmill Brook	*175
			Downstream of Taunton Street	*181
			Upstream of Taunton Street	*186
			Downstream of Turnpike Lake Dam No. 1	*196
			Upstream of Turnpike Lake Dam No. 1	*200
			Confluence with Hawthorne Brook	*201
		Hawthorne Brook	Confluence with Turtle Brook	*201
			50 feet upstream of U.S. Route 1 (Downstream Crossing)	*202
			50 feet downstream of U.S. Route 1 (Upstream Crossing)	*202
			50 feet upstream of U.S. Route 1 (Upstream Crossing)	*205
			Downstream of Cowell Street	*207
			25 feet upstream of Cowell Street	*211
		Whiting Pond Bypass	Downstream Corporate Limits	*187
			Confluence with Ten Mile River	*192

Maps available for inspection at the Office of the Town Clerk, Plainville, Massachusetts.

Massachusetts	Princeton, Town, Worcester County (Docket No. FEMA-5817[a]	Keyes Brook	Approximately 0.417 mile downstream of Hobbs Road	*769
			Approximately 0.335 mile downstream of Hobbs Road	*778
			Approximately 0.198 mile downstream of Hobbs Road	*783
			Approximately 0.015 mile downstream of Hobbs Road	*786
			Approximately 0.003 mile upstream of Hobbs Road	*787
			Approximately 0.302 mile upstream of Hobbs Road	*790
			Approximately 0.532 mile upstream of Hobbs Road	*795
			Approximately 0.749 mile upstream of Hobbs Road	*800
			Approximately 0.755 mile upstream of Hobbs Road	*801
		Governor Brook	Downstream Corporate Limits	*694
			Approximately 0.637 mile upstream of Downstream Corporate Limits	*696
		Babcock Brook	Confluence with East Wachusett Brook	*638
			Downstream side of Dam	*647
			Upstream side of Dam	*655
			Approximately 0.077 mile upstream of Dam	*655
		East Wachusett Brook	Town Farm Road	*611
			Approximately 0.392 mile upstream of Town Farm Road	*627
			Approximately 0.816 mile upstream of Town Farm Road	*635
			Upstream side Bullard Road	*642
			Approximately 0.16 mile upstream of Bullard Road	*649

Maps available for inspection at the Office of the Town Clerk, Princeton, Massachusetts.

Massachusetts	Spencer, Town, Worcester County (Docket No. FEMA-5817).	Sevenmile River	Downstream Corporate Limits	*624
			Downstream State Route 49	*626
			Downstream State Route 9	*631
			Downstream Smithville Road	*639
			Downstream State Route 31	*643
			Confluence of Turkey Hill Brook	*646

Maps available for inspection at the Selectmen's Office, Memorial Town Hall, Spencer, Massachusetts.

Massachusetts	Tewksbury, Town, Middlesex County (Docket No. FEMA-5785).	Merrimack River	Downstream Corporate Limits	*55
			Upstream Corporate Limits	*58
		Strong Water Brook	Tew-Mac Airport Culvert (Upstream)	*88
			Sewer Treatment Plant Road (Downstream)	*89
			Sewer Treatment Plant Road (Upstream)	*96
		Marshall Brook	Confluence w/Strong Water Brook	*96
			North Street (Upstream)	*112
			State Route 38 (Upstream)	*116
		Darby Brook	Confluence w/Marshall Brook	*101
			Lee Street (Upstream)	*112
			State Route 38 (Upstream)	*116
		Trull Brook	Confluence w/Merrimack River	*56
			3rd Golf Course Bridge Upstream of mouth (Downstream)	*75
			3rd Golf Course Bridge Upstream of mouth (Upstream)	*80
			River Road (Upstream)	*95
			Interstate Route 495 Culvert	*106
		Meadow Brook	Confluence w/Strong Water Brook	*96
			Kendall Road (Downstream)	*103
		Brook A	Confluence w/Shawsheen River	*76
			South Street (Upstream)	*83
		Concord River	Corporate Limits	*107

Maps available for inspection at the Office of the Town Clerk, Town Hall, Tewksbury, Massachusetts.

Massachusetts	Wales, Town, Hampden County (Docket No. FEMA-5845).	Wales Brook	0.655 mile downstream of Holland Road	*700
			0.347 mile downstream of Holland Road	*717
			0.1225 mile downstream of Holland Road	*730
			0.004 mile downstream of Holland Road	*741
			Downstream of Sizer Road	*752

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream of Sizer Road	*755
			Downstream of Fire Station Drive	*762
			0.1013 mile upstream of Fire Station Drive	*771
			Downstream of Dirt Road	*823
			0.0977 mile upstream of Dirt Road	*836
			0.0461 mile downstream of Laurel Hill Road Dam	*869
			Downstream of Laurel Hill Road Dam	*874
			Upstream of Laurel Hill Road Dam	*885
			0.0041 mile downstream of State Route 19	*895
			Upstream of State Route 19	*906
			0.1625 mile upstream of State Route 19	*912
			Downstream of Monson Road	*915
			Upstream of State Route 19 Lake George Outlet	*920
			0.783 mile upstream of State Route 19 Lake George Outlet	*944
	Maps available for inspection at the Office of the Town Clerk, Wales, Massachusetts.			
Massachusetts	West Boylston, Town, Worcester County (Docket No. FEMA–5841).	Gates Brook	Approximately 0.029 mile downstream of Boston & Maine Railroad	*444
			Approximately 0.02 mile upstream of Boston & Maine Railroad	*453
			Upstream side of Access Road	*460
			Approximately 0.094 mile upstream of Access Road	*468
			Downstream side of State Route 140	*481
			Approximately 0.019 mile downstream of 1st crossing Worcester Street.	*487
			Upstream side of 1st crossing Worcester Street	*496
			Upstream side of 2nd crossing Worcester Street Culvert	*506
			Downstream side of Driveway approximately 0.088 mile downstream of 3rd crossing Worcester Street.	*514
			Approximately 0.032 mile downstream of 3rd crossing Worcester Street.	*517
			Approximately 0.007 mile downstream of 3rd crossing Worcester Street.	*523
			Upstream side 3rd crossing Worcester Street	*535
			Downstream side of Waterfall	*541
			Upstream side of Waterfall	*554
			Approximately 0.013 mile downstream of Peirce Street	*556
			Approximately 0.012 mile upstream of Pierce Street	*575
	Maps available for inspection at the Office of the Planning Board, West Boylston, Massachusetts.			
Massachusetts	Whitman, Town, Plymouth County (Docket No. FEMA–5912).	Shumatuscacant River	Approximately 3,130' downstream of South Avenue	*65
			Approximately 60' downstream of Essex Street	*76
		Shumatuscacant Tributary	Approximately 240' upstream of Conrail Bridge	*65
			Approximately 680' upstream of South Avenue	*74
		Meadow Brook Tributary	Confluence with Meadow Brook	*79
			Approximately 525' upstream of Auburn Street	*88
			Approximately 3,625' upstream of Auburn Street	*94
		Meadow Brook	Approximately 1,880' downstream of Auburn Street	*79
			Approximately 2,230' upstream of Auburn Street	*90
	Maps available for inspection at the Town Manager's Office, Whitman Town Hall, Whitman, Massachusetts.			
Michigan	(Twp.), Caledonia, Kent County (Docket No. FEMA–5912).	Thornapple River	At downstream corporate limit	*669
			About 0.75 mile upstream 68th Street	*682
			About 0.3 mile downstream of Alaska Avenue	*703
			About 0.74 mile upstream 100th Street	*706
	Maps available for inspection at the Township Hall, Caledonia, Michigan 49302.			
Michigan	(C), Charlotte, Eaton County (Docket No. FEMA–5911).	Battle Creek River	At downstream corporate limits	*879
			Just upstream of South Cochran Street	*880
		Butternut Creek	Just upstream of Packard Street	*876
			About 650 feet upstream of Interstate 69	*878
	Maps available for inspection at the City Hall, 111 East Lawrence Street, Charlotte, Michigan 48813.			
Michigan	(C), Detroit, Wayne County (Docket No. FEMA–5912).	Detroit River	Confluence of River Rouge	*578
			Upstream corporate limits	*578
		Shallow Flooding (Overflow from Detroit River).	Intersection of Essex Avenue and Piper Avenue	#2
			Intersection of Essex Avenue and Manistique Avenue	#2
			About 900 feet north of Freud Avenue along St. Clair Avenue	#2
	Maps available for inspection at the Department of Planning, City Hall, 3400 Cadillac Tower, Detroit, Michigan 48226.			
Minnesota	(C), Arden Hills, Ramsey County (Docket No. FEMA–5912).	Valentine Lake	Shoreline	*881
		Lake Josephine	Shoreline	*886
		Lake Johanna	Shoreline	*879
		Little Lake Johanna	Shoreline	*879
		Valentine Lake Discharge Channel.	About 1490 feet downstream of County Road E 2	*878
			Just upstream of County Road E 2	*880
			At Valentine Lake	*881
		Lake Josephine Discharge Channel.	At Lake Johanna	*879
			Just downstream of State Highway 51	*880
			Approximately 90 feet upstream from Hamline Avenue	*881
			At Lake Josephine	*886

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Lake Johanna-Little Lake Johanna Discharge Channel.	At Lake Johanna	*879
			At Little Lake Johanna	*879
Maps available for inspection at the City Hall, 1450 West Highway 96, Arden Hills, Minnesota 55112.				
Minnesota	(C), Waterville, Le Sueur County (Docket No. FEMA-5702).	White Water Creek	Just downstream of 6th Street	*1,004
			About 160 feet downstream of Paquin Street	*1,005
			Just upstream of Chicago and North Western Railroad	*1,010
			About 180 feet upstream of abandoned railroad (located 1,000 feet upstream of Reed Street).	*1,013
		Lake Sakatah	Shoreline	*1,004
		Lake Tetonka	Shoreline	*1,005
		Shallow Flooding (Overflow From White Water Creek).	About 300 feet east of 4th Street and 120 feet north of Main Street	#1
Maps available for inspection at the City Hall, 201 3rd Street, South, P.O. Box 9, Waterville, Minnesota 56096.				
New Jersey	Fair Lawn (Borough), Bergen County (FEMA-5912).	Passaic River	Intersection of Chittendon Road and River Road	*37
			Intersection of Passaic River and center of Maple Avenue	*42
		Diamond Brook	Intersection of Diamond Brook and center of Harristown Road	*49
		Henderson Brook	70 feet downstream from center of State Highway 208	*54
			Intersection of McBride Avenue and Pollitt Drive	#1
		Saddle River	Intersection of Saddle River and center of Red Mill Road	*46
			Intersection of Saddle River and the Dam	*55
		Jordan Brook	70 feet upstream from center of Well Drive	*57
		Beaver Dam Brook	Intersection of Beaver Dam Brook and center of Paterson Street	*51
Maps available for inspection at Municipal Building, 8-01 Fairlawn Avenue, Fair Lawn, New Jersey.				
New Jersey	Glen Rock (Borough), Bergen County (FEMA-5912).	Diamond Brook	50 feet upstream of center of Conrail crossing	*56
			At center of Rutland Road crossing	*80
		Hohokus Brook	30 feet upstream of center of the pedestrian bridge	*61
			At center of Grove Street crossing	*65
		Saddle River	600 feet east of the intersection of Leigh Terrace and Franklin Place	*55
Maps available for inspection at Municipal Building, Glen Rock, New Jersey 07422.				
New Jersey	North Haledon (Borough), Passaic County (FEMA-5912).	Molly Ann Brook	20 feet upstream from center of Oldham Dam	*204
			Intersection of Molly Ann Brook and center of High Mountain Road	*277
			70 feet upstream from center of Sicomac Road	*364
			20 feet upstream from center of Haledon Reservoir Dam	*415
		Molly Ann Brook Tributary 3	Intersection of Molly Ann Brook Tributary 3 and center of High Mountain Road.	*218
			170 feet south of the intersection of Walray Avenue and Manor Road	*273
		Molly Ann Brook Tributary 4	Intersection of Molly Ann Brook Tributary 4 and center of De Roon Avenue.	*219
			30 feet upstream from center of Manchester Avenue	*303
			20 feet upstream from center of Motta Avenue	*382
		Squaw Brook	Intersection of Squaw Brook and center of High Mountain Road	*255
			15 feet upstream from center of Saw Mill Road	*349
			20 feet upstream from center of Squaw Brook Road	*404
		Glen Place Brook	15 feet upstream from center of High Mountain Road	*303
			10 feet upstream from center of Dam	*475
			Intersection of Glen Place Brook and the upstream corporate limit	*612
		Molly Ann Brook Tributary 6	15 feet upstream from center of Graham Avenue	*358
			150 feet southeast of the intersection of Romaine Drive and Pleasant View Drive.	*408
Maps available for inspection at 103 Overlook Avenue, North Haledon, New Jersey.				
New York	Cheektowaga, Town, Erie County (Docket No. FEMA-5912).	Ellicott Creek	Downstream Corporate Limits	*685
			Upstream Youngs Road	*691
			Upstream Corporate Limits	*700
Maps available for inspection at the Town Engineer's Office, Cheektowaga Town Hall, Broadway and Union Road, Cheektowaga, New York.				
North Dakota	Cavalier (Township) Pembina County (FEMA-5912).	Tongue River	Confluence with Breakout Flow Into Southwest Coulee	*906
		Breakout Flow Into Southwest Coulee.	Intersection of Coulee and Burlington Northern Railroad	*885
Maps available for inspection at Route 1, Box 109A, Cavalier, North Dakota.				
North Dakota	Cavalier (City), Pembina County (FEMA-5912).	Tongue River	Intersection of Bjornson Drive and River Street	*890
			Intersection of Busse Lane and Bjornson Drive	*894
		Breakout Flow Into Southwest Coulee.	At south end of the Cavalier Airport runway	*889
Maps available for inspection at City Hall, Cavalier, North Dakota.				
North Dakota	Horace (City), Cass County (FEMA-5912).	Sheyenne River	Intersection of Park Drive and Sheyenne Drive	*918
			Intersection of Center Avenue and Nelson Street	#2
Maps available for inspection at City Hall, Horsce, North Dakota.				
North Dakota	Mapleton (City), Cass County (FEMA-5912).	Maple River	1,500 feet upstream from center of Main Street	*907

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
	Maps available for inspection at City Hall, Mapleton, North Dakota.			
Ohio	(V). Germantown, Montgomery County (Docket No. FEMA-5924).	Twin Creek	About 850 feet downstream of State Route 4	*707
			Just downstream of Astoria Road	*720
			Just downstream of State Route 725	*724
		Little Twin Creek	At downstream corporate limits	*711
			About 300 feet upstream of Market Street	*716
			About 800 feet upstream of Cherry Street	*726
	Maps available for inspection at the Village Hall, Walnut and Center Streets, Germantown, Ohio 45327.			
Oklahoma	City of Collinsville, Tulsa and Rodgers Counties (FEMA-5927).	Caney River	Just downstream of U.S. Highway 169	*599
		Horsepen Creek	Just upstream of 129th East Avenue	*603
		Black Jack Creek	Approximately 500 feet downstream of Broadway Street, (146th Street North).	*609
			Just downstream of 126th Street North	*642
		Black Jack Creek Tributary A	Just upstream of Atchison, Topeka & Santa Fe Railroad	*625
			Just downstream of Garnett Road	*644
		East Creek	Just upstream of Broadway Street, (146th Street North)	*608
			Just downstream of 126th Street North	*664
	Maps available for inspection at City Hall, 12th and Main Streets, Collinsville, Oklahoma 74021.			
Oklahoma	Town of Noble, Cleveland County (FEMA-5911).	Canadian River	At south corporate limits (Cemetery Road Extended)	*1,072
		Belle Creek	Just upstream of Cemetery Road	*1,097
			Approximately 100 feet upstream of U.S. Highway 77	*1,112
			Just upstream of Maguire Road	*1,119
		Dripping Springs Creek	Approximately 100 feet at upstream of Cemetery Road	*1,108
			Just upstream of Maguire Road	*1,125
		N.W. Park Creek	Approximately 100 feet at downstream of Atchison, Topeka & Santa Fe Railway.	*1,106
			At downstream of U.S. Highway 77	*1,116
	Maps available for inspection at City Hall, 115 North 2nd Street, Noble, Oklahoma 73068.			
Oklahoma	City of Owasso, Tulsa and Rogers Counties (FEMA-5911).	Ranch Creek	At 76th Street	*591
			Just downstream of 116th Street North	*653
		Ranch Creek Tributary A	Approximately 90 feet at downstream of Atchison, Topeka and Santa Fe Railroad.	*592
			Just upstream of North 19th Street	*652
			Approximately 80 feet upstream of North Birch Street	*660
			Just downstream of Garnett Road	*675
		Bird Creek Tributary 5A	At downstream of 76th Street N (Second Avenue)	*590
			Just downstream of U.S. Highway 169	*601
			Approximately 250 feet at upstream of 63rd Street N	*615
			Approximately 100 feet at upstream of 86th Street N	*628
		Elm Creek	Just downstream of 129th Avenue E	*590
		Bird Creek	Approximately 200 feet at downstream of Atchison, Topeka and Santa Fe Railroad.	*590
	Maps available for inspection at City Hall, 207 South Cedar Street, Owasso, Oklahoma 74055.			
Oklahoma	City of Purcell, McClain County (FEMA-5911).	Canadian River	Just downstream of U.S. Highway 77	*1,034
			At the west corporate limits (Approximately 2,900 feet downstream of the Atchison, Topeka and Santa Fe Railway).	*1,057
		Walnut Creek	Just upstream of U.S. Highway 77	*1,036
			Just downstream of Interstate Highway 35	*1,039
		Beaver Creek	Approximately 100 feet upstream of Interstate Highway 35	*1,043
	Maps available for inspection at City Hall, 230 West Main Street, Purcell, Oklahoma 73080.			
Oregon	Lebanon (City), Lynn County (FEMA-5924).	Cox Creek South Santian River	Sherman Street over the channel	*334
			Approximately 600 feet east of the Ash Street intersection with Walnut Street.	*342
	Maps available for inspection at Community Development Office, 925 Main Street, Lebanon, Oregon.			
South Carolina	Unincorporated areas of Cherokee County (FEMA-5926).	Buffalo Creek	Approximately 300 feet upstream of Magnolia Plant Road	*570
			Just upstream of State Highway No. 5	*575
			Approximately 5,000 feet downstream of North Bound Bridge Interstate 85.	*576
		Cherokee Creek	Approximately 140 feet upstream of small dam above water filtration plant.	*602
			Just upstream of Interstate Highway 85	*612
			Just downstream of Lake Whelchel Dam	*633
			Just upstream of Lake Whelchel Dam	*682
			Approximately 100 feet downstream of State Highway 150	*693
			Approximately 100 feet downstream of State Road 34	*734
			Just upstream of State Road 61	*762
		Irene Creek	Just upstream of State Highway No. 15	*660
			Approximately 100 feet downstream of Rutledge Avenue	*668
		Limestone Creek	Just upstream of State Road 304	*617
			Downstream corporate limits for the City of Gaffney approximately 2,700 feet upstream from State Road 304.	*644

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Mills Creek	Just upstream of State Road 388	*596
			Just downstream of State Road 512	*658
		Peoples Creek	Just upstream of State Road 296	*643
			Just upsteam of culvert under Railroad Spur embankment	*660
			Just downstream of Beech Street	*668
		Providence Branch	Just downstream of State Highway 18	*626
			Just upstream of Vermont Drive	*668
			Just upstream of State Highway 150	*675
Maps available for inspection at Cherokee County Courthouse, 210 North Limestone Street, Gaffney, South Carolina 29340.				
Texas	City of Kilgore, Rusk and Gregg Counties (FEMA- 5926).	Bighead Creek	Approximately 60 feet downsteam of Missouri Pacific Railroad	*283
			At Pentecost Road	*299
			At Houston Street	*306
		Turkey Creek	Approximately 180 feet upstream of Houston Street	*307
			Approximately 100 feet downstream of FM 1249	*312
			Just upstream of Broadway Boulevard	*329
			Approximately 20 feet upstream of Martin Street	*336
		Birdsong Creek	*Approximately 250 feet upstream of Higginbotham Road	*322
			Lockhaven Drive Extended	*323
Maps available for inspection at Building Inspector's Office, City Hall, 901 North Kilgore Street, Kilgore, Texas 75662.				
Texas	Unincorporated areas of Smith County (FEMA-5926).	West Mud Creek	Just upstream of State Highway 344	*360
			Just upstream of County Road	*367
			Just downstream of State Highway 346	*385
			Just upstream of U.S. Route 69	*392
		Shackleford Creek	Just upstream of State Highway 346	*397
			Just upstream of Cumberland Road	*452
		Henshaw Creek	Just upstream of U.S. Highway 69	*391
			Just upstream of County Road 143	*402
			Just upstream of County Road 165	*469
		Saline Creek	Just downstream of State Highway 2868	*379
			Just upstream of State Highway 2813	*406
		Willow Creek	Just upstream of Confluence with Black Fork Creek	*419
			Just upstream of State Highway 110	*451
		West Mud Creek Tributary B	Just upstream of Reick Road	*467
			Just upstream of New Copelsnd Road	*481
			Just downstream of Paluxy Drive	*504
		Black Fork Creek	Just upstream of State Route 110	*419
			Just upstream of U.S. Highway 69	*430
			Just upstream of State Route 323	*440
			Just upstream of State Route 14	*462
Maps available for inspection at 304 Smith County Courthouse, Tyler, Texas 75702.				
Washington	Klickitat, County (Docket No. FEMA-5924).	Little Klickitat River	County Road 2510	*1,574
			State Highway 142	*1,600
			Fairgrounds Road	*1,606
			Green Mesh Road	*1,640
			Approximately 0.8 mile upstream of Green Mesh	*1,663
		Klickitat River	State Highway 142	*379
			Private Suspension Bridge over County Road 1665	*426
			Burlington Northern Railroad at bridge	*476
Maps available for inspection at the Klickitat County Planning Office, Courthouse Annex, Goldendale, Washington.				
Washington	Skykomish (Town), King County (FEMA-5924).	South Fork Skykomish River	Northern end of 6th Street (at riverbank)	*925
			Eastern side of 5th Street bridge over channel	*927
		Maloney Creek	Approximately 200 feet southwest of intersection of Northeast Old Cascade Highway and Helen Street.	*923
Maps available for inspection at City Hall, Skykomish, Washington.				
Wisconsin	(C), Brillion, Calumet County (Docket No. FEMA-5895).	Unnamed Ditch	About 1,600 feet downstream from confluence of Arens Ditch	*813
		Arien's Ditch	Just downstream of West Ryan Street	*814
		Black Creek	Just upstream of South Main Street	*810
			At upstream corporate limit	*812
			About 1.25 miles upstream of State Highway 114	*824
		Spring Creek	Just upstream of Sunset Drive	*810
			About 0.18 mile upstream of South Glenview Avenue	*817
			Just upstream of South Main Street	*819
			Just upstream of East Water Street	*823
			At upstream corporate limits	*825
Maps available for inspection at the City Clerk's Office, City Hall, 130 Calumet Street, Brillion, Wisconsin 54110.				
Wisconsin	(C), De Pere, Brown County (Docket No. FEMA-5926).	Ashwaubenon Creek	Just downstream of Fort Howard Avenue	*585
			About 600 feet upstream of State Highway 41 Southbound	*589
			About 500 feet upstream Ashwaubenon Street	*590
			About 1,300 feet upstream Main Avenue	*595
		Fox River	Downstream corporate limits	*585
			Just downstream De Pere Dam	*585
			Just upstream De Pere Dam	*591
			Upstream corporate limits	*591

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		East River	Downstream corporate limits	*591
			Upstream corporate limits	*591
Maps available for inspection at the Office of the Building Inspector, City Hall, 335 South Broadway Street, De Pere, Wisconsin 54115.				
Wisconsin	(V), Hortonville, Outagamie County (Docket No. FEMA-5924).	Black Otter Creek	About 0.5 mile downstream of U.S. Highway 45	*764
			About 650 feet upstream of U.S. Highway 45	*773
			Just downstream of Nash Street	*780
			Just upstream of Black Otter Lake Dam	*792
		Wolf River	Just upstream of County Highway M	*763
			About 3.0 miles upstream of County Highway M	*764
Maps available for inspection at the Office of the Village Clerk, Village Hall, 111 South Nash, Hortonville, Wisconsin 54944.				
Wisconsin	(C), New Holstein, Calumet County (Docket No. FEMA-5911).	Jordan Creek	About 0.7 mile downstream of Wisconsin Avenue	*904
			Just downstream of Milwaukee Drive	*924
			Just upstream of Hickory Lane	*939
			Just upstream of Plymouth Street	*967
			Just downstream of Wisconsin Avenue	*971
Maps available for inspection at the Office of the City Clerk, City Hall, 2100 Washington Street, P.O. Box 136, New Holstein, Wisconsin 53061.				

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

Issued: February 5, 1981.

Richard W. Krimm,

Acting Federal Insurance Administrator.

[FR Doc. 81-5698 Filed 2-23-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii Call Toll Free (800) 424–9080), Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 60.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of College Station, Brazos County (FEMA-5778).	Carters Creek	At confluence of Wolf Pen Creek	*246
			Just upstream of State Highway 30	*255
		Wolf Pen Creek	Just upstream of West Frontage Road of State Highway 6 Bypass	*259
		Burton Creek	Just upstream of 29th Street (Tarrow Street)	*279
		Bee Creek	Just upstream of West Frontage Road of State Highway 6 Bypass	*252
			Just upstream of Holleman Drive	*294
		Tributary A	Just upstream of Texas Avenue (State Highway 6)	*265
		Tributary B	Just upstream of FM 2818, west of Welch Boulevard	*282
Maps available for inspection at City Hall, Texas Avenue, College Station, Texas 77840.				

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

Issued: February 4, 1981.

Richard W. Krimm,

Acting Federal Insurance Administrator.

[FR Doc. 81-5905 Filed 2-23-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, (In Alaska and Hawaii Call Toll Free (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Unincorporated Areas of Limestone County (FEMA-5920).	Swan Creek	Just upstream of County Highway 33	*566
			Just upstream of Louisville and Nashville Railroad	*576
			Just upstream of U.S. Highway 31 (Bee Line Highway)	*586
			Just upstream of County Road 24 (Huntsville-Browns Ferry Road)	*611
			Just downstream of Athens, Alabama corporate limits	*625
		Piney Creek	Just upstream of County Road 24 (Huntsville-Browns Ferry Road)	*615
			Approximately 300 feet downstream of confluence of French Mill Creek.	*630
			Approximately 250 feet upstream of U.S. Highway 72 (Lee Highway)	*644
			Just downstream of confluence of Johnson Branch	*659
			Just upstream of County Road 44 (Nick Davis Road)	*668
			At confluence of Panther Branch	*680
			Approximately 400 feet downstream of State Highway 251 (Old U.S. Highway 31).	*685
		Round Island	Just upstream of County Road 41	*637
			Just downstream of County Road 43 (Blackburn Road)	*657
			Just downstream of U.S. Highway 72 (Lee Highway)	*690
			Just upstream of County Road 52 (West Hobbs Street)	*710
		Round Island Creek	Just upstream of County Road 48 (New Cut Road)	*724
		Panther Branch	Just upstream of Sardis Spring Road	*700
			At confluence of Kaufman Branch	*706
			Just downstream of State Highway 251 (Old U.S. Highway 31)	*713

Maps available for inspection at the County Engineer's Office, Courthouse Annex, 300 South Jefferson Street, Athens, Alabama 35611.

Alabama	Unincorporated areas of Morgan County (FEMA-5920).	Tennessee River	At Johnson Landing Road Extended	*572
			Just upstream of U.S. 231	*576
		Trinity Branch	Just upstream of A Farm Road located at River Mile 3.25	*605
			Just upstream of County Road No. 1	*626
		Baker's Creek	Just upstream of Pump Station Road	*563
			Just downstream of Southern Railway	*586
			Just upstream of Shady Grove Road (County Road)	*603
		Tributary to Baker's Creek	Approximately 528 feet downstream of Old Moulton Road	*594
		Betty Rye Branch	Just upstream of Fifth Street	*566
		Flint Creek	Approximately 300 feet at upstream of Barkley Bridge Road	*586
			At the confluence of an Unnamed Tributary located at upstream of Huckeley Bridge Road.	*589
			Just downstream of County Road 55	*592
		Tributary to Flint Creek	Just upstream of County road	*591
		Shoal Creek	Approximately 900 feet upstream of Parker Bridge Road	*635
			At centerline of Interstate 65	*638
			Just upstream of Lockart Road	*646
		Tributary to Shoal Creek	At the confluence with Shoal Creek	*635
		Cedar Creek	Just downstream of U.S. Highway 31	*590
			Approximately 300 feet at downstream of Chicken Farm Road (County Road).	*594
		Painter Branch	At the confluence with Flint Creek	*590
			At centerline of I-65	*613
		Robinson Creek	Just downstream of U.S. Highway 31	*596
			Just upstream of U.S. Highway 31	*601
			Approximately 300 feet upstream of Douglas Road	*603
			Just upstream of Interstate Highway 65	*605

Maps available for inspection at Morgan County Clerk's Office, County Courthouse, Lee Street, Decatur, Alabama 35601.

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	City of Pine Bluff, Jefferson County (FEMA-5926).	Caney Bayou	At intersection of Woodlea and Woodlawn Drives	*213
		Caney Bayou Tributary A	Just upstream of Hutchinson Street	*228
			Just downstream of Mosley Street	*231
			Just downstream of Bryant Street	*238
		Outlet Canal	Just upstream of U.S. Highway 65	*203
			Just upstream of Ohio Street	*204
			Just downstream of Kentucky Street	*205
		Pitts Drain	Just downstream of Ohio Street	*206
			Just downstream of Main Street	*215
			Just upstream of Laurel Street	*221
		Outlet Canal Tributary A	Just upstream of Ohio Street	*211
			Just upstream of Kentucky Street	*213
			Just upstream of Georgia Street	*221
		Caney Bayou Tributary A1	Just downstream of Rhinehart Road	*231
			Just upstream of U.S. Highway 65 (Blake Avenue)	*231
			Just downstream of Shirley Street	*235
		Brumps Bayou	Just upstream of Pullen Street	*214
			Just downstream of Mytle Street	*229
			Just upstream of Peach Street	*231
		Harding Drain	Just upstream of Pine Street	*215
			Just downstream of Mulberry Street	*221
			Just downstream of Cypress Street	*224
		Eden Park Drain	Just downstream of Main Street	*206
			Just upstream of Olive Street	*211
			Just upstream of Hickory Street	*222
		Interceptor Canal	Just downstream of West 34th Street	*219
			Just downstream of Catalpa Street	*225
		Bayou Bartholomew	Just downstream of U.S. Highway 79	*219
Maps available for inspection at City Hall, 200 East 8th Avenue, Pine Bluff, Arkansas 71601.				
Arkansas	Unincorporated Areas of Pulaski County (FEMA-5927).	Arkansas River	Just downstream of East Belt Freeway	*245
			Just upstream of Baring Cross (Missouri Pacific Railroad)	*256
			Just upstream of U.S. Highway I-430	*265
		Ison Creek	Just upstream of Townsend Street	*325
			Just upstream of Garland Street	*346
		Fourche Creek	Just downstream of Arch Street Pike (State Highway 367)	*256
			Just upstream of New Benton Highway	*260
			Just upstream of Baseline Road	*289
			Just upstream of State Highway 5	*308
		Crooked Creek	Just downstream of Highway I-30	*300
			Just downstream of Alexander Road	*315
		Callagahan Branch	Just downstream of State Highway 5 (Old Stage/Coach Road)	*292
			Just upstream of Baseline Road	*338
		Haw Branch	Just upstream of Highway 5 (Old Stage Coach Road)	*289
		Otter Creek	Just upstream of Mabelville West Road	*297
			Just upstream of Highway I-30	*301
			Just downstream of Alexander Road	*305
		McHenry Creek	Just upstream of State Highway 5 (Old Stage Coach Road)	*290
			Just upstream of Highway I-430	*297
		Nash Creek	Just downstream of Baseline Road	*280
			Just upstream of Meadow Lane	*293
		Young Creek	Just downstream of Mabelvale Pike Avenue	*266
			Just upstream of Highway I-30	*271
		Brodie Creek	Just upstream of State Highway 5 (Old Stage Coach Road)	*283
			Just upstream of Shackleford Road	*314
			Just upstream of Bowman Road	*330
		Panther Branch	Just downstream of West 36th Street	*316
			Just upstream of Bowman Road	*355
		Rock Creek	Just downstream of West Markham Parkway	*463
			Just upstream of Kanis Road	*466
		Grassy Flat Creek	Approximately 600 feet upstream of Rodney Parham Road	*387
		Coleman Creek	Just downstream of Little Rock Corporate Limits	*258
		Little Fourche Creek	Just upstream of Hilard Springs Road	*257
			Just upstream of Chicago, Rock Island, and Pacific Railroad	*273
			Just upstream of Chicot Road	*286
		Smith Creek	Just downstream of Geyers Springs Road	*265
			Just upstream of Chicot Road	*290
		Field Creek	Just downstream of Little Rock Corporate Limits	*263
		Stump Creek	Just upstream of Reck Road	*262
		Fairman Ditch	Just upstream of State Highway 161	*252
		Glenview Ditch	Just upstream of State Highway 161	*251
		Fivemile Creek	Just downstream of U.S. Highway 67-167	*256
		Fivemile Creek McCain Fork	Just downstream of Smokey Lane Road	*261
		Fivemile Creek East Tributary	Just downstream of Smokey Lane Road	*255
Maps available for inspection at City Planning Office, 3201 West Roosevelt Road, Little Rock, Arkansas 72204.				
Colorado	Orchard City (Town), Delta County FEMA-5926.	Cedar Run	Downstream edge of Vista Grandge Drive, crossing the stream	*5,297
			Downstream edge of Harts Basin Road, crossing the stream	*5,454
		Surface Creek	Downstream edge of Talbott Lane, crossing the stream	*5,442
			Downstream edge of Hamilton Lane, crossing the stream	*5,767

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at Town Hall, 2102 J 50 Road, Austin, Colorado.				
Connecticut	Cheshire, Town, New Haven County (Docket No. FEMA-5920).	Quinnipiac River	At Downstream Corporate Limits	*108
			Upstream of Cheshire Street	*113
			Upstream of Blacks Road	*115
			Upstream of Johnson Avenue	*118
			Downstream of State Route 66	*121
			Upstream of Corporate Limits	*122
		Tenmile River	At Downstream Corporate Limits	*132
			At Peck Lane	*137
			Upstream of Jarvis Street	*142
			Upstream of 1st Dam	*149
			2,750' upstream of Dam	*153
			Upstream of State Route 70	*171
			Upstream of Marion Road	*204
			Upstream of 2nd Dam	*219
			Upstream of Mixville Pond Dam	*230
			At Upstream Corporate Limits	*241
		Judd Brook	At confluence with Tenmile River	*137
			140' upstream of Corporate Limits	*138
		Mill River	At Downstream Corporate Limit	*128
			Upstream of Old Lane Road	*131
			Upstream of Cook Hill Road	*150
			Upstream of Mansion Road	*157
		Willow Brook	At Downstream Corporate Limits	*124
			Upstream of Conrail	*136
			Upstream of South Brooksvale Road	*139
			Upstream of North Brooksvale Road	*142
			Upstream of Higgins Road	*147
Maps available for inspection at the Town Planner's Office, Town Hall, 84 South Main Street, Cheshire, Connecticut.				
Connecticut	New Britain, City, Hartford County (Docket No. FEMA-5920).	Willow Brook	Downstream Corporate Limits	*61
			Downstream of Park Road	*62
			Upstream of Park Road	*66
			1,500' upstream of Park Road	*75
			Downstream of Buell Street	*121
			Upstream of Arch Street	*146
			Downstream of Harding Street	*159
			Downstream of Elbridge Road	*180
			500' upstream of Footbridge	*199
		Mason Pond Brook	Confluence with Willow Brook	*168
			Downstream of Shuttle Meadow Road	*169
			Upstream of Shuttle Meadow Road	*172
			2,230' Upstream of Shuttle Meadow Road	*175
		Schultz Pond Brook	Confluence with Willow Brook	*175
			Downstream of Elbridge Road	*184
			Victoria Road	*215
			80' Upstream of Oakwood Drive	*223
			100' Downstream of Dam	*258
			Upstream of Dam	*285
			Downstream of Reservoir Road	*333
			840' Upstream of Reservoir Road	*345
		Bass Brook	Downstream Corporate Limits	*89
			Upstream of East Street	*92
			Downstream of Private Bridge	*132
			Downstream of Barbour Road	*146
			Upstream of Barbour Road	*154
			Upstream of Hartford Road	*162
			Upstream of Stanley Street	*181
			Downstream of Nachilly Street	*243
			900' Upstream of Lewis Road	*263
		Lower Pond Brook	Lower Pond Dam	*166
			120' Upstream of Village Square Road	*166
		Batterson Park Pond Brook	Upper Pond Dam	*177
			Downstream of Stanley Park Road	*180
			90' Downstream of Brittany Farm Road	*194
			90' Upstream of Brittany Farm Road	*202
			75' Upstream of Brittany Farm Road (2nd Crossing)	*207
		Gaffney Brook	Upstream of Frances Street	*174
			1,400' Upstream of Frances Street	*179
		Sandy Brook	Downstream Corporate Limits	*89
			Upstream of Biltmore Street	*90
			Upstream of Princeton Street	*98
			2,500' Upstream of Covington Street	*127
Maps available for inspection at the City Planning Department, City Hall, 27 West Main Street, New Britain, Connecticut.				
Connecticut	Southington, Town, Hartford County (Docket No. FEMA-5920).	Quinnipiac River	Downstream Corporate Limits	*119
			Upstream Interstate Route 84	*130
			Upstream West Main Street	*140

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Mill Street	*150
			Downstream Conrail (1st crossing)	*157
			Conrail (2nd crossing)	*166
			Queens Street—4,200' upstream	*169
		Eightmile River	Confluence with Quinnipiac River	*136
			West Street downstream	*145
			Nickson Industrial Park Road upstream 750'	*155
			Prospect Street upstream 475'	*165
			Interstate 84—upstream	*175
			Interstate 84—3,000' upstream	*179
		Tenmile River	Confluence with Quinnipiac River	*123
			State Route 66 upstream	*130
			Upstream Corporate Limits	*132
		Judd Brook	Downstream County Boundary	*138
			2,000' upstream State Route 66	*145
			1,000' downstream Marion Avenue	*157
			Downstream Marion Avenue	*164
		Misery Brook	Confluence with Quinnipiac River	*121
			Downstream South End Road	*130
			Private Road 600' downstream of dam	*140
			50' downstream of dam	*150
			Upstream of Dam (800')	*169
			Meriden Avenue	*179
			6,650' upstream of East Street	*190
	Maps available for inspection at the Town Clerk's Office, Southington Town Hall, Southington, Connecticut.			
Illinois	(V), Richmond McHenry County (Docket No. FEMA-5920).	North Branch Nippersink Creek	About 4500 feet downstream of Main Street	*790
			Just downstream of the Chicago and North Western railroad	*798
			Just upstream of abandoned dam	*804
			About 1800 feet upstream of State Route 173	*805
	Maps available for inspection at the Village President's Office, Village Hall, 10308 Main Street, Richmond, Illinois 60071.			
Illinois	(V), South Barrington, Cook County (Docket No. FEMA-5843).	Poplar Creek	About 1,500 feet downstream of Mundhank Road	*824
			Just downstream of Mundhank Road	*830
			About 200 feet upstream of Mundhank Road	*832
			Just upstream of Covered Bridge Dam	*837
			About 600 feet upstream of Barrington Road	*841
		Poplar Creek Tributary A	About 300 feet upstream Interstate 90	*815
			About 2,500 feet upstream of Interstate 90	*817
	Maps available for inspection at the Village Clerk's Office, South Barrington Village Hall, Witt Road, Route No. 3, Barrington, Illinois 60010.			
Illinois	(V), South Elgin, Kane County (Docket No. FEMA-5920).	Fox River	At downstream corporate limits	*698
			Just downstream of South Elgin Dam	*700
			Just upstream of South Elgin Dam	*705
			At upstream corporate limits	*708
	Maps available for inspection at the Village Clerk's Office, Municipal Building, 10 North Water Street, South Elgin, Illinois 60177.			
Illinois	(C), Wilmington, Will County (Docket No. FEMA-5920).	Kankakee River	About 9,000 feet downstream of Illinois Central Gulf Railroad	*529
			About 4,000 feet upstream Wilmington Dam	*540
		Kankakee River (East Channel)	Just downstream of Old Powerhouse Dam	*533
			At divergence with Kankakee River	*538
		Forked Creek	Mouth at Kankakee River	*532
			Just downstream of dam (near McIntyre Street)	*538
			Just upstream of McIntyre Street	*543
			Just upstream of Baltimore Street	*545
			About 1,500 feet upstream James Street	*546
			About 9,350 feet upstream James Street	*550
		Kahler Road Drainage	At confluence with Kankakee River (East Channel)	*537
			Just downstream of Ryan Street	*544
			Just upstream of Ryan Street	*548
			Just upstream of Kahler Road	*555
			About 1,800 feet upstream of Kahler Road	*556
	Maps available for inspection at the City Hall, 114 North Main Street, Wilmington, Illinois 60481.			
Indiana	(Unic.), Howard County (Docket No. FEMA-5920).	Wildcat Creek	About 175 feet downstream of County Road 430 West	*758
			Just upstream County Road 300 West	*772
			Just upstream Norfolk and Western Railway	*787
			At the City of Kokomo corporate limits, about 150 feet upstream U.S. Route 31 (northbound lanes).	*807
			Just downstream County Road 400 East	*810
		Little Wildcat Creek	Just upstream County Road 250 South	*803
			About 200 feet upstream County Road 200 West	*819
			About 150 feet upstream County Road 300 South	*834
			About 700 feet upstream County Road 300 South	*836
			Just upstream U.S. Route 31	*847
			About 1,000 feet upstream State Route 26	*851
			Just upstream County Road 50 East	*854

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream County Road 500 South	*860
		Kokomo Creek	At the City of Kokomo corporate limits, about 200 feet upstream of Lincoln Road.	*802
			Just downstream County Road 200 East	*818
		Little Wildcat Creek West	At confluence with Little Wildcat Creek	*817
			About 500 feet downstream of Intersection of County Road 300 South and County Road 200 West.	*825
			Just upstream of Intersection of County Road 300 South and County Road 200 West.	*827
			Just downstream of County Road 400 South	*848
	Maps available for inspection at the Courthouse, Kokomo, Indiana 46901.			
Indiana	(C), Logansport, Cass County (Docket No. FEMA-5920).	Wabash River	About .70 mile downstream of Cicott Street	*589
			Just upstream of Cicott Street	*592
			About .22 mile upstream of the Conrail Bridge (near 18th Street)	*597
		Eel River	Mouth at Wabash River	*592
			Just downstream of 3rd Street	*595
			About .20 mile upstream of 6th Street	*600
			About .35 mile upstream of 6th Street	*607
			About .26 mile downstream of Davis Street	*611
			About 1.0 mile upstream of Davis Street	*617
		Goose Creek	Just downstream of Cicott Street	*592
			About 200 feet upstream of Norfolk and Western Railway	*595
			Just downstream of Biddle Street	*596
			Just upstream of Burlington Avenue	*599
			About 400 feet upstream Humphry Street	*601
	Maps available for inspection at the Mayor's Office, Room 201, City Building, Logansport, Indiana 46947.			
Iowa	(C), Durango, Dubuque County (Docket No. FEMA-5911).	North Fork Little Maquoketa River	At mouth	
			Southwest corporate limits	*649
				*649
		Sherrill Creek	About 130 feet downstream of Chicago and North Western Railroad	*647
			About 90 feet upstream Glen Dalfa Road	*649
		Little Maquoketa River	About 660 feet downstream Southeast Road	*647
			About 500 feet upstream Southeast Road	*649
	Maps available for inspection at the City Clerk's Home, Durango, Iowa 52039.			
Iowa	(C), Hancock, Pottawattamie County (Docket No. FEMA-5920).	West Nishnabotna River	At the southwest corporate limit	*1,106
			At upstream corporate limit	*1,111
	Maps avialable for inspection at the City Hall, Hancock, Iowa 51536.			
Iowa	(C), Irwin, Shelby County (Docket No. FEMA-5920).	West Nishnabotna River	Downstream corporate limit	*1,250
			Approximately 1,400 feet upstream of Front Street	*1,255
			Approximately 600 feet upstream of Cora Street	*1,259
		Elk Creek	At mouth	*1,250
			Just upstream of Cora Street	*1,258
			At upstream corporate limit	*1,259
	Maps available for inspection at the City Hall, Irwin, Iowa 51446.			
Kentucky	Unincorporated areas of Bourbon County (FEMA-5926).	Stoner Creek	Just upstream of US 460	*793
			Just upstream of Southern Paris City Limits	*800
		Houston Creek	Just upstream of Georgetown Road (U.S. 460)	*807
			Just upstream of Abandoned Frankfort and Cincinnati Railroad	*842
	Maps available for inspection at the County Judge/Executor's Office or Office of Disaster and Emergency Service, Bourbon County Courthouse, Paris, Kentucky 40361.			
Kentucky	City of Flatwoods, Greenup County (FEMA-5920).	Ohio River	Along entire Shoreline within Corporate limits	*545
	Maps available for inspection at the City Clerk's Office, City Hall, 2411 Argillite Road, Flatwoods, Kentucky 41139.			
Louisiana	Unincorporated areas of Acadia Parish (FEMA-5912).	Bayou des Cannes	Just upstream of Louisiana State Highway 100	*16
		North Bayou Mallet	Just upstream of Louisiana Highway 3123	*36
		Eunice South Ditch	Just downstream of Louisiana State Highway 3116	*38
		Morse Lateral	Just upstream of Louisiana Highway 1115	*12
			Just upstream of Louisiana Highway 92	*14
		Mermentau River	Just downstream of the Town of Mermentau's Corporate limits	*13
		Bayou Plaquemine Brule	Just upstream of Louisiana Highway 13	*21
	Maps available for inspection at Acadia Parish Secretary's Office, Parish Courthouse Building, Court Circle, Third Floor, Crowley, Louisiana.			
Louisiana	Unincorporated areas of Pointe Coupee Parish (FEMA-5912).	Bayou Pond	Approximately 1,000 feet upstream of confluence with Portage Canal	*31
		Bayou Pond Lateral Number 3	Approximately 1,000 feet upstream of confluence with Portage Canal	*31
		False Bayou	Just upstream of Louisiana 413 Bridge	*22
			Just upstream of Texas and Pacific Railroad Bridge	*29

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		False Bayou Lateral	Just upstream of confluence with False Bayou	*29
		Patin Dyke Lateral	Just upstream of confluence with False Bayou	*21
		Discharge Bayou	Just upstream of Louisiana 413 Bridge	*21
		Bayou Grosse Tete	Just upstream of confluence with Bayou Fordache	*19
		Bayou Fordoche	Approximately 2,000 feet upstream of confluence with Bayou Grosse Tete.	*20
		Bayou Black	Just upstream of Missouri Pacific Railroad Bridge	*26
			Just upstream of U.S. 190	*26
Maps available for inspection at the Office of the President of the Pointe Coupee Police Jury, Parish Courthouse, New Roads Road, or Mr. Martin's Office, President, New Roads, Louisiana 70760.				
Louisiana	Town of Vinton, Calcasieu Parish (FEMA-5912).	Hampton Coulee	Just upstream of Southern Pacific Railroad	*12
			Just upstream of West Street	*14
		Vinton Drainage Canal	Just downstream of West Street	*11
Maps available for inspection at Town Hall, 1200 Horridge Street, Vinton, Louisiana 70668.				
Louisiana	Town of Welsh, Jefferson Davis Parish (FEMA-5938).	East Bayou Lacassine	Just upstream of U.S. Highway 90 (West Russell Avenue)	*16
			Just downstream of Interstate Highway 10	*18
		Lateral L-1	Just upstream of East South Street	*16
Maps available for inspection at City Hall, 200 Elm Street, Welsh, Louisiana 70591.				
Maine	North Yarmouth, Town, Cumberland County [Docket No. FEMA-5912].	Royal River	Downstream Corporate Limits	*84
			Upstream of State Route 9	*89
			Upstream of Mill Road	*94
			Upstream Corporate Limits	*96
Maps available for inspection at the North Yarmouth Town Hall, R.F.D. 2, Cumberland Center, Maine.				
Maryland	Aberdeen, Town, Harford County (Docket No. FEMA-5883).	Swan Creek	Michael Lane Extended	*112 *
			Northeast Corporate Limits	*131
			Confluence of Carsins Run	*141
			State Route 462 (downstream side)	*146
			State Route 462 (upstream side)	*153
			Approximately 2,470' upstream of State Route 462	*170
		Carsins Run	Confluence with Swan Creek	*141
			Approximately 1,280' upstream of confluence with Swan Creek	*157
			Maxu Road (upstream side)	*167
			Upstream Corporate Limits	*180
		Tributary to Romney Creek	Downstream Corporate Limits	*57
			Conrail Culvert (upstream side)	*64
Maps available for inspection at the Municipal Building, 3 West Bel Air Avenue, Aberdeen, Maryland.				
Massachusetts	Ashland, Town, Middlesex County (Docket No. FEMA-5938).	Sudbury River	Downstream Corporate Limits	*175
			Upstream of Conrail (downstream crossing)	*180
			Upstream of Front Street	*187
			Upstream of Former Lombard Governor Dam	*193
			Upstream of Cordaville Road	*202
			Upstream of Howe Street	*210
			Approximately 600' upstream of Conrail (upstream crossing)	*218
			Upstream Corporate Limits	*236
		Cold Spring Brook	Confluence with Sudbury River	*181
			Ashland State Park Boundary	*181
			Just Upstream of Spring Street	*221
			Approximately 650' upstream of Spring Street	*234
			Upstream Corporate Limits	*238
		Tributary to Cold Spring Brook	Confluence with Cold Spring Brook	*181
			Approximately 900' upstream of Metropolitan Avenue	*189
			Approximately 1,200' upstream of Metropolitan Avenue	*195
			Approximately 1,750' upstream of Metropolitan Avenue	*208
			Approximately 2,400' downstream of Edgewood Drive	*225
			Approximately 1,600' downstream of Edgewood Drive	*233
		Beaver-dam Brook	Downstream Corporate Limits	*158
			Downstream of Dirt Road	*159
		Tributary to Waushakum Pond	Downstream Corporate Limits	*160
			Upstream of Greenwood Street	*164
			Approximately 400' upstream of Wenzell Road (extended)	*164
Maps available for inspection at the Town Clerk's Office, Ashland, Massachusetts.				
Michigan	(Chtr. Twp.) Delhi, Ingham County (Docket No. FEMA-5911).	Grand River	Just upstream of Waverly Road	*853
			Upstream corporate limits	*857
		Sycamore Creek	Just upstream of Jolly Road	*838
			Just downstream of College Road	*846
		Mud Lake Drain	Just upstream of Aurelius Road (about 600 feet south of Jolly Road)	*839
			Just downstream of Aurelius Road (about 2700 feet south of Jolly Road).	*843
		Gilbert Drain	Just upstream of Waverly Road	*864
			About 1500 feet upstream of Grovenburg Road	*866
Maps available for inspection at the Delhi Township Hall, 1974 Cedar Street, Holt, Michigan 48842.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(C), Imlay City, Lapeer County (Docket No. FEMA-5874).	North Branch Belle River	About 850 feet downstream Grand Trunk Western Railroad (near eastern corporate limits).	*801
			Just upstream State Highway 21 (near private driveway)	*810
			About 100 feet upstream Grand Trunk Western Railroad (near western corporate limits).	*816
	Maps available for inspection at City Hall, 150 N. Main Street, Imlay City, Michigan 48444.			
Michigan	(Twp.), Oneida, Eaton County (Docket No. FEMA-5911).	Grand River	At county boundary	*792
			At downstream corporate limits of City of Grand Ledge	*798
			At upstream corporate limits of City of Grand Ledge	*800
			At upstream coprorate limits	*803
	Maps available for inspection at the Oneida Township Hall, 11883 Oneida Road, Grand Ledge, Michigan 48837.			
Missouri	(T) Canalou, New Madrid County (Docket No. FEMA-5926).	Shallow Flooding (Little River and Other Slough Overflow).	Within corporate limits	*291
	Maps available for inspection at the Town Hall, P.O. Box 221, Canalou, Missouri 63828.			
Missouri	(C) Morehouse, New Madrid County (Docket No. FEMA-5926).	Shallow Flooding—Little River Overflow.	From Wayne Street to the southern corporate limit	*295
			From Wayne Street to the northwestern corporate limit	*298
		Shallow Flooding—Otter Slough Overflow.	Carrol and Pine Streets	*299
			100 feet north of Craig Place and Front Street	*299
	Maps available for inspection at the City Hall, P.O. Box 96, Morehouse, Missouri 63868.			
Nebraska	(C), Blair, Washington County (Docket No. FEMA-5926).	Missouri River	About 2.5 miles downstream U.S. Highway 30	*1,006
			About 3.2 miles upstream of U.S. Highway 30	*1,011
		Cauble Creek	About 120 feet downstream of confluence of Cauble Creek East Tributary.	*1,034
			Just downstream U.S. Highway 73	*1,048
			Just upstream U.S. Highway 73	*1,055
			Just downstream of College Drive	*1,056
		Cauble Creek East Tributary	Mouth at Cauble Creek	*1,034
			Just downstream Baronage Drive	*1,057
			Just upstream Baronage Drive	*1,065
			Just downstream College View Drive	*1,066
		Cameron Ditch	Mouth at Missouri River	*1,007
			Just downstream of County Road located about 800 feet upstream of U.S. Highway 30.	*1,009
		Unnamed Creek	Just upstream Chicago and North Western railroad	*1,060
			Just downstream 13th Street	*1,073
			Just upstream 17th Street	*1,092
			Just downstream 19th Street	*1,102
	Maps available for inspection at the City Hall, 1570 Washington Street, Blair, Nebraska 68008.			
New York	Town of Wheatfield, Niagara County (FEMA-5911).	Bergholtz Creek	Just upstream of Williams Road	*576
			Just upstream of Hoover Road	*595
		Brant Road Tributary	Approximately 300 feet upstream of Ward Road	*587
		Raymond Road Tributary	Just downstream of Raymond Road	*603
		Cayuga Creek	Just downstream of Lockport Road	*605
			Just upstream of Blank Road	*616
		Cayuga Creek Tributary	Confluence of Cayuga Creek and Cayuga Creek Tributary	*610
		Tonawanda Creek	Just upstream of Niagara Falls Boulevard	*573
		Sawyer Creek	Just upstream of Shawnee Road	*573
			Just upstream of Schultz Road	*575
			Just upstream of Nash Road	*577
		Bull Creek	Just downstream of Town Line Road (Downstream of Crossing)	*573
			Just downstream of Loveland Road	*578
			Just downstream of Town Line Road (Upstream of Crossing)	*580
	Maps available for inspection at Town Hall, 2800 Church Road, Wheatfield, New York 14120.			
North Carolina	Archdale (City), Muddy Creek, Randolph County (FEMA-5911).	Muddy Creek	50 feet upstream from center of North Carolina Secondary Road 1916—Weart Road.	*722
			20 feet upstream from center of North Carolina Secondary Road 1608—School Road.	*784
		Muddy Creek—West Tributary	Intersection of Sunny Lane and Archdale Road	*792
			100 feet upstream from Center of North Carolina Highway 62—Trindale Road.	*823
		Muddy Creek—East Tributary	200 feet upstream from center of Ashbrook Street	*737
			50 feet upstream from center of North Carolina Secondary Road 1912—Aldridge Road.	*759
	Maps available for inspection at City Hall, 307 Balfour Drive, Archdale, North Carolina.			
North Carolina	Asheboro (City), Randolph County (FEMA-5911).	Deep River	100 feet upstream from center of North Carolina Secondary Road 2261—Old Liberty Road.	*572
		Hasketts Creek	20 feet upstream from center of Bridge at Sewage Plant	*611
			100 feet upstream from center of Greenvale Road	*649

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Hasketts Creek—North Tributary	50 feet downstream from center of Northwood Drive	*670
		Penwood Branch	50 feet upstream from center of North Carolina Secondary Road 2261—Old Liberty Road.	*637
			Intersection of Windsor Drive and Camden Court	*697
		Penwood Branch—South Tributary.	Intersection of Grove Street and Glovinia Street	*764
		Vestal Creek	Intersection of creek and center of Cox Road	*669
		Vestal Creek—Tributary I	100 feet upstream from center of Newbern Avenue	*711
		Vestal Creek—Tributary II	50 feet upstream from center of Pine Grove	*710
		Vestal Creek—Tributary III	Confluence with Vestal Creek—Tributary II	*663
Maps available for inspection at City Hall, 146 N. Church Street, Asheboro, North Carolina.				
North Carolina	Randolph County (Unincorporated Areas) (FEMA–5911).	Richland Creek	Intersection of Creek and center of North Carolina Secondary Road 2831.	*509
		Muddy Creek	50 feet upstream from center of North Carolina Secondary Road 1917.	*717
		Deep River	150 feet upstream of center of North Carolina Secondary Road 2261—Old Liberty Road.	*572
		Hasketts Creek	250 feet upstream of Center of North Carolina Secondary Road 2128.	*577
		Vestal Creek	Intersection of creek and center of Cox Road	*669
Maps available for inspection at Mapping Department, 145 Worth Street, Asheboro, North Carolina.				
Oklahoma	Town of Sperry, Tulsa and Osage Counties (FEMA–5938).	Bird Creek	Approximately 800 feet upstream of Hominey Creek	*614
		Delaware Creek	Just downstream of the Cincinnati Avenue Bridge	*615
Maps available for inspection at City Hall, 116 South Cincinnati, Sperry, Oklahoma 74073.				
Pennsylvania	Allenport, Borough, Washington County (Docket No. FEMA–5924).	Monongahela River	Downstream Corporate Limits	*763
			Approximately 0.75 mile downstream of upstream Corporate Limits	*764
			Upstream Corporate Limits	*765
Maps available for inspection at the Allenport Community Center, Main Street, Stockdale, Pennsylvania.				
Pennsylvania	Aston, Township, Delaware County (Docket No. FEMA–5883).	Chester Creek	Downstream Corporate Limits	*31
			Upstream Bridgewater Road	*40
			Upstream Dutton Mill Road	*49
			Downstream Knowlton Road	*58
			Upstream Mt. Alverno Road	*67
			Upstream of Dam	*78
			Upstream Pennell Road	*83
			Approximately 1,600' downstream of Convent Road	*93
			Downstream Convent Road	*102
			Downstream Hollow Hill Road	*105
			Approximately 1,200' downstream of Lenni Road	*107
			Downstream Lenni Road/Corporate Limits	*114
		West Branch Chester Creek	Confluence with Chester Creek	*105
			Upstream New Road	*112
			Upstream of downstream Dam	*121
			Upstream of upstream Dam	*136
			Approximately 2,000' downstream of Aston Mills Road	*189
			Approximately 1,000' upstream of Aston Mills Road	*147
			Approximately 2,000' upstream of Aston Mills Road	*162
			Approximately 3,000' upstream of Aston Mills Road	*167
			Approximately 1,000' downstream of Valley Brook Road	*171
			Corporate Limits/Valley Brook Road	*173
Maps available for inspection at the Township Building, 233 Pennell Road, Aston, Pennsylvania.				
Pennsylvania	Avoca, Borough, Luzerne County (Docket No. FEMA–5924).	Mill Creek	Downstream Corporate Limits	*642
			Downstream Conrail	*643
			Upstream Conrail	*654
			Upstream West McAlpine Street	*673
			Downstream Pittston Avenue	*709
			Upstream Corporate Limits	*712
Maps available for inspection at the Borough Building, 752 Main Street, Avoca, Pennsylvania.				
Pennsylvania	Belle Vernon, Borough, Fayette County (Docket No. FEMA–5886).	Monongahela River	Downstream County Boundary	*762
			Upstream Corporate Limits	*763
Maps available for inspection at the Borough Building, 10 Main Street, Belle Vernon, Pennsylvania.				
Pennsylvania	Ben Avon, Borough, Allegheny County (Docket No. FEMA–5924).	Ohio River	Downstream Corporate Limits	*722
			Upstream Corporate Limits	*723
		Lowries Run	Approximately 170 feet above confluence with Ohio River	*721
			Approximately 590 feet above confluence with Ohio River	*722
Maps available for inspection at the Ben Avon Borough Building, 7101 Church Avenue, Pittsburgh, Pennsylvania.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Charleroi, Borough, Washington County (Docket No. FEMA-5893).	Monongahela River	Downstream Corporate Limits	*760
			Upstream of Lock and Dam No. 4	*761
			Upstream Corporate Limits	*762
	Maps available for inspection at the Charleroi Municipal Building.			
Pennsylvania	Crescent, Township, Allegheny County (Docket No. FEMA-5924).	Ohio River	Downstream Corporate Limits	*711
			Upstream Corporate Limits	*713
	Maps available for inspection at the Crescent Municipal Building, Spring Run Road, Glenwillard, Pennsylvania.			
Pennsylvania	Dunlevy, Borough, Washington County (Docket No. FEMA-5893).	Monongahela River	Upstream Corporate Limits	*763
			Downstream Corporate Limits	*763
	Maps available for inspection at the Dunlevy Borough Building.			
Pennsylvania	East Berlin, Borough, Adams County (Docket No. FEMA-5893).	West Conewago Creek	Downstream Corporate Limits	*401
			Upstream State Route 194	*403
			Downstream State Route 234	*409
			Upstream Corporate Limits	*412
		Beaver Creek	Confluence with West Conewago Creek	*401
			Upstream Corporate Limits	*403
	Maps available for inspection at the East Berlin Borough Offices.			
Pennsylvania	East Bethlehem, Township, Washington County (Docket No. FEMA-5924).	Monongahela River	Downstream Corporate Limits	*777
			Confluence with Tenmile Creek (upstream corporate limits)	*780
		Tenmile Creek	Confluence with Monongahela River	*780
			Upstream side of Center Street	*785
			Approximately 0.93 mile upstream of Center Street	*795
			Approximately 1.53 miles upstream of Center Street	*804
	Maps available for inspection at the East Bethlehem Municipal Building, Water Street, Fredericktown, Pennsylvania.			
Pennsylvania	East Marlborough, Township, Chester County (Docket No. FEMA-5886).	West Branch Red Clay Creek	Upstream side of Township Line Road Bridge	*294
			Downstream side of Mill Road Bridge	*302
			Approximately 2,000' upstream of Mill Road Bridge	*311
			Approximately 5,000' upstream of Mill Road Bridge	*322
			Approximately 80' downstream of State Route 926 Bridge	*328
		East Branch Red Clay Creek	Downstream Corporate Limits	*325
			Approximately 3,000' upstream of downstream Corporate Limits	*336
			Approximately 100' downstream of County Club Road Bridge	*342
	Maps available for inspection at the residence of the Township Secretary, Ms. Jane Laslo, Beverly Drive, Kennett Square, Pennsylvania.			
Pennsylvania	East Rochester, Beaver County (Docket No. FEMA-5893).	Ohio River	Downstream Corporate Limits	*704
			Upstream Corporate Limits	*705
	Maps available for inspection at the Borough Building, Spruce Street, East Rochester, Pennsylvania.			
Pennsylvania	Elco, Borough, Washington County (Docket No. FEMA-5924).	Monongahela River	Downstream Corporate Limits	*766
			Upstream Corporate Limits	*766
	Maps available for inspection at the Borough Building, Elco, Pennsylvania.			
Pennsylvania	Elizabeth, Borough, Allegheny County (Docket No. FEMA-5924).	Monongahela River	Upstream Corporate Limits	*749
			Downstream Corporate Limits	*749
	Maps available for inspection at the Municipal Building, 206 Third Avenue, Elizabeth, Pennsylvania.			
Pennsylvania	Glen Rock, Borough, York County (Docket No. FEMA-5924).	South Branch Codorus Creek	Downstream Corporate Limits	*546
			Valley Street (Upstream side)	*556
			Upstream Corporate Limits	*567
		Tributary A	Argyle Avenue (Downstream side)	*555
			Camp Road Extended	*561
			Upstream Corporate Limits	*570
	Maps available for inspection at the Glen Rock Borough Office.			
Pennsylvania	Green Tree, Borough, Allegheny County (Docket No. FEMA-5924).	Whiskey Run	Downstream Corporate Limits	*818
			Downstream of Penn Lincoln Culvert	*827
			Upstream of Penn Lincoln Culvert	*851
			Upstream from Private Drive	*885
			At Glencoe Avenue Culvert	*907
			Approximately 700 feet upstream from Glencoe Avenue Culvert	*924
	Maps available for inspection at the Green Tree Borough Building, 978 Greentree Road, Pittsburgh, Pennsylvania.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Greenville, Borough, Mercer County (Docket No. FEMA-5883).	Shenango River	Corporate Limits (Downstream)	*942
			Main Street (Upstream side)	*946
			Corporate Limits (Upstream)	*950
		Little Shenango River	Confluence with Shenango River	*947
			College Avenue (Upstream side)	*951
			Corporate Limits (Upstream)	*958
	Maps available for inspection at the Municipal Building in the Council Chambers, Greenville, Pennsylvania.			
Pennsylvania	Kennett Square, Borough, Chester County (Docket No. FEMA-5883).	West Branch Red Clay Creek	Upstream side of West Cypress Street Bridge	*277
			Upstream Corporate Limits	*281
		East Branch Red Clay Creek	Downstream Corporate Limits	*283
			Downstream side of Conrail Bridge	*292
			Downstream side of East State Street Bridge	*300
			Upstream Corporate Limits	*306
	Maps available for inspection at the Borough Building, Broad and Linden Streets, Kennett Square, Pennsylvania.			
Pennsylvania	Monessen, City, Westmoreland County (Docket No. FEMA-5924).	Monongahela River	Upstream Corporate Limits	*760
			Downstream Corporate Limits	*759
	Maps available for inspection at City Hall, Third and Donner Avenue, Monessen, Pennsylvania.			
Pennsylvania	Mountville, Borough, Lancaster County (Docket No. FEMA-5873).	Strickler Run	Downstream Corporate Limits	*358
			Upstream of Main Street (State Route 462)	*372
			Downstream of Hill Street	*386
			Upstream Corporate Limits	*392
	Maps available for inspection at the Mountville Borough Hall.			
Pennsylvania	North Catasauqua, Borough, Northampton County (Docket No. FEMA-5895).	Lehigh River	Downstream Corporate Limits	*280
			Upstream Eugene Street	*284
			Upstream Corporate Limits	*285
		Catasauqua Creek	Downstream Corporate Limits	*303
			Upstream Private Farm Road	*312
			Upstream Private Road	*320
			Upstream Corporate Limits	*326
	Maps available for inspection at Borough Hall, Fourth and Arch Streets, North Catasauqua, Pennsylvania.			
Pennsylvania	North Charleroi, Borough, Washington County (Docket No. FEMA-5924).	Monongahela River	Upstream Corporate Limits	*760
			Downstream Corporate Limits	*760
	Maps available for inspection at the Borough Building, North Charleroi, Pennsylvania.			
Pennsylvania	Rices Landing, Borough, Greene County (Docket No. FEMA-5924).	Monongahela River	Downstream Corporate Limits	*781
			Upstream Corporate Limits	*783
	Maps available for inspection at the Fire Hall, Rices Landing, Pennsylvania.			
Pennsylvania	Roscoe, Borough, Washington County (Docket No. FEMA-5911).	Monongahela River	Downstream Corporate Limits	*765
			Upstream Corporate Limits	*766
	Maps available for inspection at the residence of Ms. Ruth Chester, Borough Secretary, 503 Underwood, Roscoe, Pennsylvania.			
Pennsylvania	Speers, Borough, Washington County (Docket No. FEMA-5893).	Monongahela River	Downstream Corporate Limits	*762
			Upstream I-70	*782
			Upstream Corporate Limits	*763
	Maps available for inspection at the Speers Borough Building.			
Pennsylvania	Stockdale, Borough, Washington County (Docket No. FEMA-5886).	Monongahela River	Downstream Corporate Limits	*765
			Upstream Corporate Limits	*765
	Maps available for inspection at the Stockdale Borough Building.			
Pennsylvania	Straban, Township, Adams County (Docket No. FEMA-5895).	Rock Creek	Downstream Corporate Limits	*461
			State Route 116 (Upstream)	*479
			U.S. Business Route 15 (Upstream)	*483
			Approximately 3,500' upstream of Boyds School Road	*490
		Rock Creek Tributary 1	Confluence with Rock Creek	*462
			State Route 116 (Upstream)	*474
			Natural Springs Road (Upstream)	*486
			Approximately 2,400' upstream of Natural Springs Road	*498
		Rock Creek Tributary 2	Confluence with Rock Creek	*481
			Approximately 1,300' downstream of Legislative Route 01040	*492
			Legislative Route 01040 downstream side	*502

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Rock Creek Tributary 3	Confluence with Rock Creek	*490
			Put Road (Upstream)	*506
			Approximately 1,800' upstream of Put Road	*509
		Plum Run	Downstream Corporate Limits	*483
			State Route 116	*487
			Approximately 2,000' upstream of State Route 116	*501
			Approximately 800' upstream of Rocky Grove Road extended	*528
Maps available for inspection at the residence of Mr. Weaner, Township Secretary, Weaners Road, Gettysburg, Pennsylvania.				
Pennsylvania	Wesleyville, Borough, Erie County (Docket No. FEMA-5873).	Fourmile Creek	Downstream Corporate Limits	*682
			Buffalo Road (Downstream)	*698
			Buffalo Road (Upstream)	*705
			Rose Avenue (Extended)	*725
			Station Road (Upstream)	*749
			Upstream Corporate Limits	*771
Maps available for inspection at the Borough Hall, 3421 Buffalo Road, Wesleyville, Pennsylvania.				
Pennsylvania	West Bradford, Township, Chester County (Docket No. FEMA-5924).	East Branch Brandywine Creek	Approximately 1,800' downstream of U.S. Route 322	*209
			Downstream crossing of U.S. Route 322 (upstream)	*212
			Harmony Hill Road (upstream)	*217
			Upstream crossing of U.S. Route 322 (upstream)	*227
			Upstream Corporate Limits	*229
Maps available for inspection at the West Bradford Township Building, 1535 Poorhouse Road, Downingtown, Pennsylvania.				
Pennsylvania	West Donegal, Township, Lancaster County (Docket No. FEMA-5873).	Conewago Creek East	Downstream Corporate Limits	*329
			Downstream of Conrail	*352
			Upstream of Conrail	*358
			Upstream of Zeager Road	*371
			Upstream Corporate Limits	*385
		Snitz Creek	Downstream Corporate Limits	*395
			Downstream of Private Bridge	*433
			Upstream of Private Bridge	*439
			Downstream of Bossler Road	*442
		Conoy Creek	Upstream of Stone Mill Road	*357
			Confluence of Tributary No. 1 to Conoy Creek	*361
		Tributary No. 1 to Conoy Creek	Upstream of confluence with Conoy Creek	*362
			Upstream of Miller Road	*365
			Downstream of Private Road	*377
			Approximately 1,600 feet upstream of Private Bridge	*387
Maps available for inspection at West Donegal Township Building.				
South Carolina	Town of Landrum, Spartanburg County (FEMA-5924).	Spivey Creek	Just upstream of Jones Street	*940
			Just upstream Dam	*981
		Wolfe Creek	Approximately 100 feet upstream of Columbus Road	*952
Maps available for inspection at City Clerk's Office, City Hall, 100 North Shamrock Avenue, Landrum, South Carolina 29356.				
South Carolina	City of Union City, Union County (FEMA-5924).	Meng Creek	Just downstream of Lakeside Drive	*477
		Tributary M-2	Just upstream of Lakeview Heights Road (culvert)	*490
		Tributary M-3	First crossing of Northern Corporate limits	*509
Maps available for inspection at City Hall, North Herndon Street, Union City, South Carolina 29379				
Texas	City of Anahuac, Chambers County (FEMA-5911).	Lake Anahuac	Along Shoreline	*12
		Galveston Bay	Along western corporate limits (Trinity River Channel)	*13
Maps available for inspection at City Manager's Office, City Hall, 501 Miller Street, Anahuac, Texas 77514.				
Texas	City of Driscoll, Nueces County (FEMA-5938).	Shallow Flooding	Intersection of Main Avenue and 1st Street	*64.5
Maps available for inspection at City Secretary's Office, City Hall, Main Street, Driscoll, Texas 78351.				
Texas	City of Odem, San Patricio County (FEMA-5873).	Peter's Swale	Just downstream of Missouri Pacific Railroad	*71
			Just upstream of U.S. Highway 77	*73
Maps available at City Hall, 514 Park Avenue, Odem, Texas 78370.				
Texas	City of Robstown, Nueces County (FEMA-5926).	Ditch A	Just downstream of Missouri Pacific Railroad	*73
			Just upstream of FM Highway 1889	*79
		Ditch BN	Just upstream of Airport Road	*79
		Ditch C	Just downstream of Unnamed Road upstream of confluence of Ditch E.	*68
		Ditch E	Just upstream of State Highway 44	*70
			Just upstream of U.S. Highway 77	*73
		Shallow Flooding Area	At intersection of Avenue C and Seventh Street	*73
			At intersection of Main Avenue and San Patricio Street	*77
Maps available for inspection at City Hall, 101 East Main Street, Robstown, Texas 78380.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Sinton, San Patricio County (FEMA–5926).	Chiltipin Creek	Intersection of Rachel Avenue and West Wolder Street	*49
			Just upstream of U.S. Route 181	*50
	Maps available for inspection at City Hall, 301 East Market Street, Sinton, Texas 78387.			
Texas	Town of Woodsboro, Refugio County (FEMA–5926).	Tributary A	Just upstream of Jetter Street	*34
	Maps available for inspection at City Hall, Woodsboro, Texas 78393.			
Wisconsin	(C), Kaukauna, Outagamie County (Docket No. FEMA–5924).	Fox River	Easternmost corporate limits	*610
			Just downstream Thilmany Dam	*612
			Just upstream Thilmany Dam	*631
			Just upstream Elm Street	*640
			Just downstream Kaukauna Dam	*651
			Just upstream Kaukauna Dam	*656
			Westernmost corporate limit	*660
	Maps available for inspection at the Office of the City Engineer, City Hall, 201 West Second Street, Kaukauna, Wisconsin 54130.			
Wisconsin	(C), Oconto Falls, Oconto County (Docket No. FEMA–5924).	Oconto River	Downstream corporate limits	*632
			About 2600 feet downstream Paper Mill Dam	*640
			Just downstream Paper Mill Dam	*673
			Just upstream Paper Mill Dam	*706
			Just downstream Power Dam	*707
			Just upstream Power Dam	*732
			At upstream corporate limits	*733
		Unnamed Tributary	Mouth at Oconto River	*639
			About 100 feet downstream Maple Avenue	*645
			Just upstream Maple Avenue	*654
			About 800 feet downstream Flatley Avenue	*659
			About 200 feet downstream Flatley Avenue	*671
			About 80 feet upstream Flatley Avenue	*693
			At upstream corporate limits	*731
	Maps available for inspection at the Office of the City Engineer, City Hall, 1040 South Franklin Street, P.O. Box 70, Oconto Falls, Wisconsin 54154.			
Wisconsin	(V), Shiocton, Outagamie County (Docket No. FEMA–5924).	Willow Creek	Downstream corporate limit	*766
			Upstream corporate limit	*768
		Wolf River	Downstream corporate limit	*766
			Upstream corporate limit	*768
	Maps available for inspection at the Village Clerk's Office, Village Hall, P.O. Box 96, Shiocton, Wisconsin 54170.			

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

Issued: February 5, 1981.

Richard W. Krimm,

Acting Federal Insurance Administrator.

[FR Doc. 81–5907 Filed 2–23–81; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FEMA–5824]

National Flood Insurance Program; Final Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule; Correction.

SUMMARY: This document corrects a Notice of Final Determinations of base (100-year) flood elevations for selected locations in the Township of North East, Erie County, Pennsylvania, previously published at 45 FR 84794 on December 23, 1980.

EFFECTIVE DATE: February 24, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Final Determinations of base (100-year) flood elevations for selected locations in the Township of North East, Erie County, Pennsylvania, previously published at 45 FR 84794 on December 23, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

As a result of a typographical error, the numerals for the elevation for the location of upstream Corporate Limits, under the Source of Flooding of Baker Creek, were transposed. The elevation should be amended to read 739 feet in elevation. The corresponding Flood Insurance Study (profile), Flood Insurance Rate Map, and proposed notice were correct as printed.

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

Issued: February 6, 1981.

Richard W. Krimm,

Acting Administrotor, Federal Insurance Administration.

[FR Doc. 81–5904 Filed 2–23–81; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-327; RM-3544]

FM Broadcast Station in Fruita, Colorado; Changes Made in Table of Assignments; Radio Broadcast Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class C FM Channel 260 to Fruita, Colorado, in response to a petition filed by Richard G. Maynard. The proposed station would provide a first local aural broadcast service to Fruita, and provide first and second FM and nighttime aural service to the surrounding area.

EFFECTIVE DATE: April 13, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order

(Proceeding Terminated)

Adopted: February 10, 1981.

Released: February 13, 1981.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a *Notice of Proposed Rule Making*, 45 Fed. Reg. 46453, published July 10, 1980, which seeks the assignment of Class C Channel 260 to Fruita, Colorado, as that community's first FM assignment, in response to a petition filed by Richard G. Maynard ("petitioner"). Comments were filed by the petitioner in which he restated his intent to file for the channel, if assigned.

2. Fruita (pop. 1,822),[1] in Mesa County (pop. 54,374), is located in the western part of Colorado, approximately 35 kilometers (22 miles) northwest of Grand Junction, Colorado, and 322 kilometers (200 miles) west of Denver, Colorado. It has no local aural broadcast service.

3. As stated in the *Notice*, Fruita's prime economy is based on agriculture and its population is expected to reach 5,000 by 1985. Further, the *Notice* stated that according to the petitioner a Class C FM station with 100 kW power, at an antenna height of 157 meters (517 feet) could provide a first FM service to 956 persons, a second FM service to 117 persons and the same first and second nighttime aural service, respectively.

4. As a result of the proposed Channel 260 assignment to Fruita, preclusion would occur on co-channel 260 and adjacent channels (275A, 258, 259, 261A, 262 and 263). Communities located in fourteen Colorado counties, twelve Utah counties, and one Wyoming county, may be foreclosed from a possible assignment of one or more of the affected channels. However, petitioner states that Channels 272A, 276A, 280A, and 292A are available for assignment to some of the precluded areas.

5. Although a community this size is not normally assigned a Class C channel, the proposed assignment would provide first and second service. Since alternate channels are available for the precluded areas, we believe that the preclusion impact is insubstantial. Therefore, we find the proposal justified.

6. In view of the foregoing, it is ordered, That effective April 13, 1981, the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) is amended with regard to the following community:

City	Channel No.
Fruita, Colorado	260

7. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-6193 Filed 2-23-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 80-519; RM-3642]

TV Broadcast Station in Fort Walton Beach, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: Action taken herein amends § 73.606(b) of the Commission's Rules, the Television Table of Assignments, by assigning UHF Channel 52+ to Fort Walton Beach, Florida, as a second TV assignment, in response to a petition from Fort Walton Beach Broadcasting Corporation, Inc.

EFFECTIVE DATE: March 24, 1981.

FOR FURTHER INFORMATION CONTACT: Kathy A. Grant, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, television broadcast stations (Fort Walton Beach, Florida).

Report and Order

(Proceeding Terminated)

Adopted: February 4, 1981.

Released: February 10, 1981.

By the Chief, Policy and Rules Division:

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 45 FR 58609, published September 4, 1980, which proposed the substitution of UHF Channel 50 for UHF Channel 35 at Fort Walton Beach, Florida, in response to a petition filed by Fort Walton Beach Broadcasting Corporation ("petitioner"). Channel 35 is unoccupied and unapplied for. Petitioner filed comments in which it reaffirmed its intent to apply for the channel, if assigned. Omega Communications, Inc., licensee of TV Station WOFL, Channel 35 at Orlando, Florida, expressed support for the proposed substitution. Comments were also filed by Hess Broadcasting Corporation ("Hess"), permittee of UHF Channel 15 in Mobile, Alabama, to which petitioner responded.

2. Fort Walton Beach (population 19,994),[1] in Okaloosa County (population 88,187), is located in northwest Florida, on the Gulf of Mexico, approximately 60 kilometers (37 miles) east of Pensacola, Florida.

3. Petitioner requested that Channel 50 be substituted for Channel 35 at Fort Walton Beach because of limitations caused by close mileage separation tolerances and air hazard considerations (Eglin Air Force Base is located in the area). Hess, in comments, requested that Channel 35 remain in Fort Walton Beach. Hess stated an intention to operate a satellite station

[1] Population figures are taken from the 1970 U.S. Census.

there and explained that the limitations leading petitioner to request the substitution do not apply to its contemplated operation. However, Channels 35 and 50 cannot both be assigned to Fort Walton Beach because the minimum distance separation requirement is 75 miles for UHF assignments 15 channels apart.[2] Hess pointed out that there are 14 channels in addition to Channel 50 which could be assigned as the community's second television facility. Petitioner responded, stating they would have no objection, provided one of the channels between Channel 52 through 56 is also assigned.

4. Our staff has verified that Channel 52 with a + offset may be assigned to Fort Walton Beach in full compliance with the minimum spacing requirements.

5. The Commission believes that the public interest would be served by assigning Channel 52 (with a + offset) to Fort Walton Beach and maintaining the assignment of Channel 35 to that community. While affording the petitioner much greater site selection flexibility, Fort Walton Beach will be provided with its second local television assignment.

6. Accordingly, it is ordered, That effective March 24, 1981, § 73.606(b) of the Commission's Rules, the Television Table of Assignments, is amended for

City	Channel
Fort Walton Beach, Florida	35, 52+

7. Authority for the action taken herein is contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Kathy A. Grant, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-6196 Filed 2-23-81; 8:45 am]

BILLING CODE 6712-01-M

[2] See § 73.698 of the Commission's Rules.

47 CFR Part 73

[BC Docket No. 79-180; RM-3133, RM-3159]

FM Broadcast Stations in Athens and New Boston, Ohio, and Greenup and Vanceburg, Kentucky; Changes Made in Table of Assignments; Radio Broadcast Services

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: This action assigns Channel 288A to Greenup, Kentucky, as that community's first FM channel assignment in response to a petition filed by Greenup County Broadcasting, Inc., and denies the petition of New Boston Broadcasting Corporation to delete Channel 285A from Vanceburg, Kentucky, reassign it to New Boston, Ohio, and substitute Channel 261A at Vanceburg.

EFFECTIVE DATE: April 13, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order

(Proceeding Terminated)

Adopted: February 11, 1981.

Released: February 20, 1981.

By the Chief, Policy and Rules Division:

1. The Commission has before it a *Notice of Proposed Rule Making and Order to Show Cause*, 44 FR 44573, published on July 30, 1979, and issued in response to petitions filed by New Boston Broadcasting Corp. ("NBBC") and Greenup County Broadcasting, Inc. ("GCB"). The *Notice* proposed first FM channel assignments for New Boston, Ohio (population 3,325) [1] and Greenup, Kentucky (population 1,284). Specifically, it would delete presently unoccupied Channel 285A from Vanceburg, Kentucky, reassign it to New Boston and substitute Channel 261A at Vanceburg (RM-3133). In addition, it would delete Channel 288A from Athens, Ohio, reassign it to Greenup and substitute Channel 240A at Athens (RM-3159). Finally, the Commission also proposed to modify the license of WATH, Inc. for Station WXTQ (FM), at Athens to Channel 240A.

2. The two rule making proceedings were consolidated by the Commission due to the fact that, were both proposals to be adopted, the reference points for New Boston and Greenup would fall short of the minimum spacing requirements (Section 73.207 of the Commission's Rules). The proposed assignment of Channel 288A to Greenup would be short-spaced by 1.9 kilometers (1.2 miles) to co-channel Station WPRT-FM at Prestonburg, Ky., to the south and by 3.2 kilometers (2 miles) to the proposed Channel 285A at New Boston to the north. These short-spacings, it stated, combined with the location of Greenup on the Ohio River, would require the Channel 288A transmitter to be located approximately 3.2 kilometers (2 miles) northwest of Greenup and the Channel 285A transmitter to be located approximately 8 kilometers (5 miles) north of New Boston. Accordingly, the Commission requested showings from each petitioner establishing the availability of transmitter sites which would provide the required shadow-free city grade principal community coverage and conform to the site restrictions imposed by the *Notice*.

3. The *Notice* also raised issues concerning (1) New Boston's small size and its relationship with larger neighboring Portsmouth, Ohio, and (2) the availability of transmitter sites to overcome terrain obstacles to city grade coverage on Channel 261A at Vanceburg.

4. Comments on the *Notice of Proposed Rule Making and Order to Show Cause* have been filed by petitioner NBBC, licensee of Station WIOI(AM), New Boston; by petitioner GCB; by T/R, Inc., licensee of Stations WNXT(AM) and WNXT-FM, Portsmouth; by WPAY, Inc., licensee of Stations WPAY(AM) and WPAY-FM, Portsmouth; by Ohio Valley Broadcasting Company ("Ohio Valley"), licensee of Station WKKS(AM), Vanceburg; and by WATH, Inc., licensee of Stations WATH(AM), and WXTQ(FM) in Athens. Reply comments were filed by NBBC, WPAY, Inc., Ohio Valley and T/R, Inc.

5. In comments, WPAY, Inc., T/R, Inc. and Ohio Valley join in opposition to the proposal to reassign FM Channel 285A from Vanceburg to New Boston and to substitute FM Channel 261A at Vanceburg. New Boston, they contend, presently receives adequate service from the two AM and two FM stations operating in Portsmouth and one AM station serving New Boston. They point to New Boston's small size and its geographical and economic relationship with Portsmouth as the bases for stating that the problems and needs of both communities are identical. Indeed, they assert, the relationship is such that an assignment to New Boston should raise

[1] Population figures are taken from the 1970 U.S. Census.

a "Berwick" issue.[2] In their view, petitioner NBBC has failed to demonstrate the existence of needs in New Boston separate from those of Portsmouth.

6. WPAY, Inc., T/R, Inc. and Ohio Valley also argue that the transmitter accessibility problem raised by the site proposed by NBBC on Channel 261A to serve Vanceburg presents a serious obstacle to the proposal. In their opinion, it would be unreasonable to be required to operate a transmitter from a site that would necessitate travelling more than 80 miles round trip from Vanceburg since the trip involves travelling approximately 20 miles downstream to cross the river. As for remedying this problem with ferry service, they point out that petitioner NBBC has provided no indication as to the current status or the projected completion date of such a service and question whether the service will ever become reliable enough in view of the legal, economic and climatic difficulties.

7. Ohio Valley adds that should the Commission nevertheless choose to substitute short-spaced Channel 261A to Vanceburg for Channel 285A, the transmitter must be constructed at a site to the north of Vanceburg in order to meet the minimum mileage separation requirements. However, according to Ohio Valley's engineering study, a transmitter so located (such as the one proposed by petitioner NBBC) would not meet the Commission's line-of-sight coverage requirements for Vanceburg, the principal community, resulting in the shadowing of major portions of the business and residential areas of Vanceburg. Finally, Ohio Valley states that it plans to file an application for a construction permit for Channel 285A as soon as possible.

8. Petitioner GCB's comments state that its principals have obtained a transmitter site as close as possible to the spacing "border" of WPRT–FM at Prestonburg and the Ohio River, which it believes will provide a 1 mV/m signal contour over virtually all of Greenup. Thus, it asserts, insofar as NBBC is able to locate a site fully compatible with that of GCB's, it would not object to the proposal to add Channel 285A to New Boston. In the event, however, that NBBC is not able to demonstrate the availability of a site as outlined in the *Notice*, then its own proposal should prevail since (a) GCB will have located a suitable transmitter site, whereas NBBC would not have, and (b) GCB can adequately demonstrate the need for a first radio service in Greenup County, whereas questions remain on the need for an additional FM assignment at New Boston.

9. In support of the second point above, GCB recites the arguments advanced by WPAY, Inc., T/R, Inc. and Ohio Valley with regard to the adequacy of New Boston's present aural service to meet its programming needs. In addition, it asserts that Greenup's need for FM service is greater than that of New Boston since there are no radio stations presently licensed to Greenup and the signals it receives originate from stations located in other states and counties. Moreover, it asserts, the continuing expansion of population and commerce in Greenup County, as indicated by the community data submitted by GCB, warrants a grant of an FM assignment to Greenup. It concludes by stating that Greenup should prevail over New Boston since under its proposal the only change necessary for compliance with the Commission's spacing requirements would be to modify the license of Station WXTQ(FM) to specify operation on Channel 240A instead of Channel 288A, while under the NBBC proposal the channel substitution at Vanceburg would substantially eliminate the prospects for FM service there. GCB states that should Channel 288A be made available to Greenup it will promptly apply for an FM broadcast construction permit specifying operation on Channel 288A and, if successful, will reimburse the licensee of Station WXTQ(FM), Athens, for all necessary and prudent expenses incurred in implementing the channel modification.

10. WATH, Inc. filed comments in opposition to the *Notice of Proposed Rule Making and Order to Show Cause* insofar as it would modify the license of its Station WXTQ(FM) at Athens to specify an operation on Channel 240A. In pertinent part, the comments state that, concurrent with the filing of the GCB petition, WATH, Inc. began to explore the possibility of relocating the transmitter site of WXTQ(FM) to a point north of Athens as a means of better serving the community's population center. Among the advantages it claimed would follow from the relocation is the elimination of the need to modify its channel as stated in the *Order to Show Cause*. By granting the application to relocate the WATH, Inc. transmitter, it argued, Channel 288A could be assigned to Greenup and retained at Athens as well, consistent with the mileage spacing requirements. It further stated that if the Commission approved the proposed transmitter relocation, the use of Channel 240A would create short spacings which would preclude its use north of Athens.

11. The comments of petitioner NBBC contain an engineering study purporting to demonstrate that sites are available for the use of Channel 261A at Vanceburg which would provide the required shadow-free city grade service. It proposes a randomly selected transmitter site located 4 miles east of Vanceburg on the Kentucky side of the Ohio River which it believes would eliminate both the transmitter accessiblility problem and the shadowing problem posed by the site originally specified for Vanceburg in its petition.

12. NBBC's comments acknowledge the fact that the *Notice* requires it to accommodate the GCB proposal in order to meet the 15-mile minimum spacing requirement between Channel 288A at Greenup and Channel 285A at New Boston. In this regard, NBBC submits an engineering study indicating that the terrain in the area is such that a shadow-free city grade service will probably not be provided to all of New Boston from a site conforming to the restrictions as set forth in the *Notice*. To resolve this problem, however, petitioner NBBC states that it will obtain a site at a location in compliance with the minimum spacing requirements and will utilize one or more FM broadcast translator stations to provide a shadow-free city grade service to every part of New Boston. In order to establish the existence of separate needs in New Boston from those of Portsmouth, petitioner cites 1976 U.S. Census tabulations reporting a 7.0 percent (5,500 persons) increase in the population of Scioto County since 1970 and offers information concerning a proposed construction project and the opening of a shopping mall in New Boston. NBBC states that it is seeking the assignment because it hopes to provide the residents of New Boston and its surrounding area with certain types of programming primarily local in nature, which it believes are not presently provided on a fulltime basis, by existing Portsmouth and New Boston stations.

13. In reply comments, WPAY, Inc., T/R, Inc. and Ohio Valley reiterate their claim that petitioner NBBC has failed to establish separate needs for the proposed assignment at New Boston. They particularly criticize the paucity of the community data submitted by NBBC to support that need and assert that the data evidences growth in Scioto County, not in New Boston. Indeed, they claim, the 7.0 percent growth reported by petitioner occurred entirely in Wheelersburg, Ohio, located 11

[2] *Berwick Broadcasting Corporation*, 12 F.C.C. 2d 8 (1968), *aff'd*, 20 F.C.C. 2d 396 (1969).

kilometers (7 miles) east of New Boston. In addition, they believe that all of the programming proposed to be provided to New Boston by NBBC is already provided by existing Portsmouth stations. They argue that an assignment of Channel 285A to New Boston would in fact prove to be a sixth (third FM) station for Portsmouth in view of petitioner's statement that it intends to serve New Boston and its surrounding area.

14. In response to NBBC's assertion that its newly proposed transmitter site for Channel 261A on the Kentucky side of the Ohio River would deliver a shadow-free signal to Vanceburg, WPAY, Inc., T/R, Inc. and Ohio Valley contend that the engineering study offered by NBBC in support of the feasibility of that site is deficient inasmuch as it is based on an outdated representation of the Vanceburg city limits. Vanceburg, they claim, has recently annexed a large residential section to the south which effectively doubles the former size of the community. Petitioner NBBC has not considered this, they assert, and as a result proposes a transmitter site on Channel 261A which it has not positively determined can serve the business and residential sections of Vanceburg with a shadow-free city grade signal. They believe a severe shadowing problem will, in fact, exist at the newly proposed site and point out that a Channel 285A assignment at Vanceburg would be free of such difficulties. Ohio Valley's reply comments add that it has begun the process of preparing an application for a construction permit on Channel 285A which would locate its transmitter at or near its AM facilities on the hills overlooking Vanceburg. From that site, it asserted, FM Channel 285A could deliver shadow-free city grade reception to all of Vanceburg and Lewis County as a first local fulltime broadcast service.

15. NBBC's reply comments responded by first reiterating its belief that New Boston is an underserved community. In support of that statement, it pointed to the fact that New Boston has no FM channels assigned to it and submitted additional population data which indicated that the community had grown by approximately 20 percent since 1970 and other assorted data concerning the community's government, commerce and employment, educational system and social outlets. According to NBBC, the opposition of WPAY, Inc. and T/R, Inc. is primarily motivated by a desire on their part, as licensees of AM and FM stations in Portsmouth, to maintain their competitive advantage over WIOI's daytime-only AM operation in New Boston. In response to the assertion that an assignment to New Boston raises a "Berwick" issue, NBBC cites Commission precedent which states that such an issue is not necessarily warranted merely because an assignment is made to a small community close in geographical proximity to a larger one even though the assignment places a strong signal over the larger community. In NBBC's view, the fact that a community has its own civic, social and political makeup qualifies it for its own station.

16. NBBC's reply comments concede that the site originally proposed for Channel 261A across the Ohio River posed transmitter accessibility problems. However, the availability of what it regards as adequate (*i.e.*, shadow-free and accessible) transmitter sites on the Kentucky side of the Ohio River east of Vanceburg, such as the second proposed site, remedies whatever shortcomings the originally proposed site may have had. Therefore, NBBC concludes, the Commission need not reach the question of which community, New Boston or Greenup, is more deserving of an FM assignment, since (as it stated in its comments), it proposes to obtain a site at a location meeting the minimum spacing requirements and to provide shadow-free city grade service to all of New Boston by utilizing one or more FM broadcast translator stations. In short, it argues, the availability of suitable sites for New Boston, Greenup and Vanceburg eliminates the mutually exclusive features of the two proposals.

17. As stated above, the issue that first confronts us is whether both the New Boston and the Greenup proposal can be separately adopted in accordance with the mileage separation requirements. Here the primary determination depends on whether each petitioner has made the requisite showing as to the availability of a transmitter site which provides a shadow-free city grade principal community coverage and conforms to the site restrictions specified by the *Notice*. As to Greenup, petitioner GCB states that its principals have purchased such a site for its proposed station. Certainly, the provision of a first local aural service to Greenup justifies the requested assignment. In this regard, we note that the Commission, in November, 1980, granted the application of WATH, Inc. to relocate the WXTQ(FM) transmitter site to coordinates north of Athens thereby eliminating the short spacing to the proposed Greenup site and the need to modify the license of Station WXTQ(FM).

18. As for the showings submitted by petitioner NBBC for the New Boston station, it appears that, because of terrain shielding, New Boston will probably not receive primary shadow-free city grade coverage from any site conforming to the site restriction of 4.5 kilometers (3 miles) north of New Boston as proposed. NBBC proposes to resolve this problem by obtaining a site that will meet the minimum spacing requirements and by providing a shadow-free signal utilizing one or more FM broadcast translator stations.

19. We believe this deficiency is fatal to the NBBC proposal. First, there is a long-standing Commission policy that translator stations are to be regarded as secondary services vis-a-vis primary broadcast services. This policy is embodied in § 74.1203(a) of the Commission's Rules, which provides that:

> FM translator services will be authorized and *permitted to continue to operate only where they cause no interference* to the direct reception by the public of any authorized station. (Emphasis added)

Thus, at any point under NBBC's proposal (such as where a broadcast station is authorized to relocate its transmitter site), New Boston, the primary community, would be subject to forfeiting the use of Channel 285A. Second, § 73.315(b) of the Commission's Rules states:

> The transmitter location should be so chosen that line of sight can be obtained from the antenna over the principal city or cities to be served; in no event should there be a major obstruction in this path.

NBBC admits that terrain obstacles are serious enough to require that translators be utilized to eliminate shadowing. However, it has failed to provide line-of-sight projections which might enable the Commission to determine the full extent of the shadowing. Thus, the Commission is unwilling to assume that the problem is minor in the absence of any hard data on the matter. In the case of *Attica, New York*, 54 F.C.C. 2d 1137 (1975), the Commission, citing § 73.315(b), refused to adopt a proposal where the evidence indicated that it would be impossible to locate a site that would meet the required mileage separations and place a shadow-free signal over the principal community. This, in our opinion, is precisely the situation in the present case. Thus, since it appears that NBBC has failed to demonstrate the availability of a transmitter site meeting the signal coverage requirements and site restrictions imposed by the *Notice*,

we could not adopt this proposal and the Greenup proposal without short-spacing.

20. A comparison of the needs of each community for a first FM assignment reveals the following factors: (1) New Boston already receives local service from daytime-only AM Station WIOI whereas Greenup has no local service. (2) New Boston is said to receive service from 4 Portsmouth stations, a city on which it borders. Greenup is not served by any nearby stations as far as we can determine by the information submitted. New Boston's population is larger than that of Greenup (3,325 to 1,234), but the difference is not large and the 1970 U.S. Census figures are outdated. Greenup is the county seat while New Boston does not appear to be a particularly significant community in its county.

21. In relation to this comparison, the Commission wishes to note the adverse impact of the New Boston proposal upon the prospects for a first FM service at Vanceburg. Although the transmitter accessibility problem is no longer an issue with the proposal of a site on the Kentucky side of the Ohio River, the terrain shadowing problem remains. The comments of WPAY, Inc., T/R, Inc. and Ohio Valley indicate that the ability of the second proposed site for Channel 261A to deliver a shadow-free service to Vanceburg is suspect inasmuch as NBBC's engineering study failed to take account of recently annexed residential sections to the south. An investigation by the Commission's technical staff confirms the claim that large portions of Vanceburg would be severely shadowed. The Greenup proposal, on the other hand, will have no effect on the Athens station as indicated earlier in paragraph 17, *supra*. Thus given the comparative factors and the impact of the New Boston proposal on the prospects for a Vanceburg station, we believe the greater need for a first FM station exists at Greenup.

22. In view of the foregoing and pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, IT IS ORDERED, That effective April 13, 1981, § 73.202(b) of the Commission's Rules IS AMENDED, with respect to Greenup, Kentucky, as follows:

City	Channel No.
Greenup, Ky	268A

23. It is further ordered, That the request (RM-3133) of New Boston Broadcasting Corporation to assign Channel 285A to New Boston, Ohio, IS DENIED.

24. It is further ordered, that this proceeding IS TERMINATED.

25. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-6194 Filed 2-23-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-105; RM-3319]

FM Broadcast Station in Cobleskill, New York; Changes Made in Table of Assignments; Radio Broadcast Services

AGENCY: Federal Communications Commission.

ACTION: Final rule (report and order).

SUMMARY: Action taken herein assigns Class B FM Channel 278 to Cobleskill, New York, in response to a petition filed by John C. Clancy. The proposed station would provide a first local aural broadcast service to Cobleskill, and a first and second FM and second nighttime aural service to the surrounding area.

EFFECTIVE DATE: March 24, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: February 2, 1981.

Released: February 9, 1981.

By the Chief, Policy and Rules Division:

1. The Commission herein considers a *Notice of Proposed Rule Making*, 45 FR 19575, published March 26, 1980, proposing the assignment of FM Channel 278 to Cobleskill, New York, as that community's first FM assignment. The petitioner filed supporting comments and reaffirmed his intent to apply for the station, if assigned.

2. Cobleskill (pop. 4,368),[1] in Schoharie County (pop. 24,750), is located approximately 56 kilometers (35 miles) west of Albany. It has no local aural broadcast service.

3. As stated in the *Notice*, a wide area coverage Class B facility would permit expanded FM service to unserved and underserved areas, by providing a first FM and second nighttime aural service to 2,032 persons, and a second FM service to 9,903 persons.

4. Although a community of this size is not normally assigned a Class B channel, the proposed assignment would provide significant first and second service to a substantial population. Therefore, we believe it would be in the public interest to assign Channel 278 to Cobleskill, New York, as its first FM channel assignment. The transmitter site is restricted to 28 kilometers (17.6 miles) north of the city.

5. The Canadian Government has given concurrence to the assignment of Channel 278 to Cobleskill, New York.

6. Accordingly, it is ordered, That effective March 24, 1981, the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) is amended with regard to the following community:

City	Channel No.
Cobleskill, N.Y.	278

7. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-6197 Filed 2-23-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-525; RM-3554]

FM Broadcast Station in Orem, Utah; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes a Class C FM channel for a

[1] Population figures are taken from the 1970 U.S. Census.

Class A FM channel at Orem, Utah, and modifies the license of the petitioner, Morris J. Jones to specify the Class C channel. The assignment could provide service to the surrounding area and population.

EFFECTIVE DATE: March 24, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b) Table of Assignments FM broadcast stations (Orem, Utah); Report and Order (proceeding terminated).

Adopted: February 4, 1981.

Released: February 11, 1981.

By the Chief, Policy and Rules Division:

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 45 FR 58626 published September 4, 1980, proposing the substitution of Class C Channel 298 for Channel 296A at Orem, Utah, in response to a petition filed by Morris J. Jones ("petitioner"), licensee of FM Station KABE (Channel 296A). The *Notice* also proposed modification of the licensee for Channel 296A to specify operation on Channel 298. Petitioner submitted comments restating his intent to apply for authority to construct and operate a station on Channel 298, if assigned.

2. Orem (pop. 25,729),[1] in Utah County (pop. 137,776) is located approximately 56 kilometers (35 miles) south of Salt Lake City. It is served locally by FM Station KABE (Channel 296A).

3. As stated in the *Notice*, Station KABE has difficulty in serving Orem due to low signal strength and multipath interference apparently due to reflections of the signal off the nearby mountains to the east. The unavailability of nearby transmitter sites on the mountains to the east is also a factor. The *Notice* further states that the increase in facilities could provide service to the outlying areas to the north and northwest of Orem and northern Utah County.

4. Due to mileage restrictions for second adjacent Class C stations, the preclusion study was dependent upon the outcome of the Clearfield-Roy, Utah proposal (BC Docket 80–477, RM–3617). Since the petitioner in that proceeding agreed to a transmitter site restriction, we have determined that preclusion is insignificant.

[1] Population figures are taken from the 1970 U.S. Census.

5. In view of the above, the Commission believes that the public interest would be served by the proposed substitution of channels since it would provide expanded service to the surrounding area and population. We have also authorized in paragraph 8, a modification of petitioner's license for Station KABE(FM) to specify Channel 298, since there has been no other expression of interest in the Class C channel. See *Cheyenne, Wyoming* 62FCC 2d 63 (1976).

6. In view of the foregoing, It is ordered, that effective March 24, 1981, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended, with respect to the community listed below as follows:

City	Channel No.
Orem, Utah	298

7. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

8. It is further ordered, that pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Morris J. Jones, for Station KABE(FM), Orem Utah, is modified, effective March 24, 1981, to specify operation on Channel 298 instead of 296A. The licensee shall inform the Commission in writing no later than March 24, 1981, of its acceptance of this modification. Station KABE(FM) may continue to operate on Channel 296A for one year from the effective date of this action or until it is ready to operate on Channel 298, whichever is earlier, unless the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on channel 298, the licensee of Station KABE(FM) shall submit to the Commission the technical information normally requested of an applicant for Channel 298.

(b) At least 10 days prior to commencing operation on Channel 298, the licensee of Station KABE(FM) shall submit measurement data required of an applicant for a broadcast license; and

(c) The license of Station KABE(FM) shall not commence operation on Channel 298 without prior Commission authorization.

Nothing contained herein shall authorize a major change in transmitter site or the necessity of filing an environmental impact statement where required.

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast bureau.

[FR Doc. 81–6195 Filed 2–23–81; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1100 and 1131

[Ex Parte No. MC–67 (Sub-No. 6)]

Elimination of Notification Procedure in the Processing of Emergency Temporary Authority Applications Under 49 U.S.C. 10928

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The rules noticed in this document are a partial disposition of the issues in this proceeding in that they clarify the procedures and decisional standards applicable to appeals from decisions on applications for emergency temporary authority. Concurrent with the notice of final rules here, the Commission (in a separate document) is proposing rules applying to ETA applications, to place the burden of notifying competitive carriers upon the applicant.

EFFECTIVE DATE: March 26, 1981.

ADDRESS: Copies of the Commission's decision may be obtained by written request to: Secretary, Interstate Commerce Commission, Washington, DC 20423, or by calling the toll-free number (800) 424–9312.

FOR FURTHER INFORMATION CONTACT: Ombudsman's Office, (202) 275–7440, Jane Alspaugh, (202) 275–1873, or Donald J. Shaw, Jr., (202) 275–7292.

SUPPLEMENTARY INFORMATION: By a notice of proposed rules at 45 FR 6634 (January 29, 1980), we proposed to clarify to some extent the procedures applicable to appeals from decisions on emergency temporary authority applications. These include the time limits and requirements for serving copies of pleadings on other parties.

The Commission adopted the proposed appellate procedures. Applicants must seek reconsideration

within 20 days of receiving notice of the decision on the application. Any other interested person may file an appeal of an ETA grant at any time during the life of the authority. Pleadings must be served on all other parties.

We also clarified how administrative appeals are handled, for the reasons discussed in the report. The relevant focus on appeal is upon conditions as they existed immediately preceding the grant of the application, not on conditions prevailing at the time of the appeal. (This was explicitly stated in our earlier regulations but was inadvertently rendered ambiguous by a recent revision.) The standard for revoking a grant of authority is indentical to the standard that would have applied had the applicant challenged the application when it was filed.

To conform our regulations to the decision in this matter, the following regulations are adopted by amending Parts 1100 and 1131 of Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations, as follows.

(1) Revise paragraph 1100.225(f) to read as follows:

§ 1100.225 [Amended]

* * * * *

(f) Except as provided below for matters involving emergency temporary authority, a petition seeking reconsideration of a decision entered under 49 U.S.C. 10928 shall be filed within 20 days after the date of service of this decision. Within 20 days after the filing of the petition, any person may file and serve a reply to the petition. An applicant seeking reconsideration of a decision concerning *emergency temporary authority* must file a petition within 20 days after it is notified of the decision on the application. Any other interested person seeking reconsideration of a decision granting emergency temporary authority may file a petition at any time during the life of the authority. Replies may be filed within 20 days after the filing of the petition. Pleadings must be served on all parties of record.

(2) Revise the introductory text of § 1131.4(b) to read as follows:

§ 1131.4 [Amended]

* * * * *

(b) *Standards for determination.* The following standards shall be used, in the absence of special or unusual circumstances, in the initial or appellate determination under 49 U.S.C. 10928 of applications by motor carriers for temporary authority or emergency temporary authority.

(3) Add the following paragraph (d) to § 1131.6:

§ 1131.6 [Amended]

* * * * *

(d) *Procedures.* The procedures governing petitions and replies are set forth in the Commission's General and Special Rules of Practice, 49 CFR 1100. For special time limits governing petitions and replies, see specifically § 1100.225(f).

These rules are issued under the authority contained in 49 U.S.C. 10321 and 10928, and 5 U.S.C. 553 and were adopted by the Commission on February 12, 1981. M.C.C.

Decided: February 12, 1981.

By the Commission, Chairman Gaskins, Vice Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6083 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 46, No. 36
Tuesday, February 24, 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 Part 771

Agency Administrative Grievance System

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: This is a proposal by the Office of Personnel Management to amend our regulations on agency administrative grievance systems. These regulations provide criteria for the establishment and publication of an administrative grievance system by each agency and defines the employee and action coverage to comply with those provisions of the Civil Service Reform Act of 1978 which affect employee administrative grievance rights. These proposed amendments further define the employee and action coverage of the system.

COMMENT DATE: Written comments will be considered if received on or before April 27, 1981.

ADDRESS: Send or deliver written comments to the Workforce Effectiveness and Development Group, Employee Relations Branch, Office of Personnel Management, Room 7612, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Gary D. Wahlert, (202) 632-7778.

SUPPLEMENTARY INFORMATION: Four amendments to Part 771 are being proposed. Each amendment affects § 771.206(c) which sets forth certain exclusions from coverage under the agency administrative grievance system.

The first amendment affects paragraph (c)(1)(v) of § 771.206 which is concerned with employees of the Senior Executive Service (SES). Specifically, it is proposed that "an officer or employee" be changed to "a career appointee" to precisely reflect the type of employee affected by this exclusion. In addition, it is proposed that "or another pay system" be inserted after "General Schedule" to reflect the fact that some career appointees to the SES may have previously occupied positions not in the General Schedule.

The second amendment first proposed to redesignate paragraphs (c)(1) (vi) through (xii) of § 771.206 in order that a new paragraph (c)(1)(vi) may be added that also is concerned with employees of the SES. The proposed new paragraph would preclude grievances over a reassignment of a SES appointee following the receipt of an unsatisfactory rating under section 4314 of title 5, United States Code. The exclusion of grievances concerning reassignments under these circumstances is consistent with the mandatory nature of the statute requiring action. It is noted that the current paragraph (c)(1)(xiii) excludes grievances concerning performance evaluations under Subchapter II of Chapter 43 of title 5, United States Code, entitled "Performance Appraisal in the Senior Executive Service." Also paragraph (c)(1)(xiii) would be redesignated as paragraph (c)(1)(xv) to permit insertion of a second new paragraph.

The third proposed amendment is also concerned with employees of the SES. This amendment would add paragraph (c)(1)(xiv) to § 771.206 and would exclude grievances concerning terminations of SES career appointees during probation for unacceptable performance under Subpart D of Part 359 of the Code of Federal Regulations. This exclusion would be consistent with that currently set forth in paragraph (c)(1)(xiii) concerning the termination of other probationary employees for unsatisfactory performance under Subpart H of Part 315 of the Code of Federal Regulations.

The fourth and final amendment would add a new paragraph (c)(1)(xvi) to § 771.206. This proposed paragraph would exclude grievances concerning actions taken in accordance with the terms of a voluntary agreement by an employee that would result in the assignment of the employee from one geographical location to another within the continental United States or would result in the return of the employee from an overseas assignment. In both instances, employees entering into voluntary agreements to accept geographical moves could not subsequently grieve actions by the agency that are nothing more than the effectuation of the agreements.

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulations.

Office of Personnel Management.

Beverly McCain Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is proposing to amend Part 771 of Title 5, Code of Federal Regulations, as follows:

1. Revise § 771.206 paragraph (c)(1)(v) to read as follows:

§ 771.206 Exclusions.

* * * * *

(c) * * *

(1) * * *

(v) A return of a Senior Executive Service career appointee to the General Schedule or another pay system during the one year period of probation or for less than fully successful executive performance under section 3592 of title 5, United States Code;

2. In § 771.206 paragraphs (c)(1) (vi) through (xii) are redesignated paragraphs (c)(1) (vii) through (xiii). Paragraph (c)(1)(xiii) is redesignated as paragraph (c)(1)(xv). A new paragraph (c)(1)(vi) is added to read as follows:

§ 771.206 Exclusions.

* * * * *

(c) * * *

(1) * * *

(vi) A reassignment of a Senior Executive Service appointee following the appointee's receipt of an unsatisfactory rating under section 4314 of title 5, United States Code;

3. In § 771.206 add paragraph (c)(1)(xiv) to read as follows:

§ 771.206 Exclusions.

* * * * *

(c) * * *

(1) * * *

(xiv) The termination under Subpart D of Part 359 of this title of a Senior Executive Service career appointee during probation for unacceptable performance.

4. In § 771.206 add paragraph (c)(1)(xvi) to read as follows:

§ 771.206 Exclusions.

* * * * *

(c) * * *

(1) * * *

(xvi) An action taken in accordance with the terms of an agreement voluntarily entered into by an employee which: (A) assigns the employee from one geographical location to another within the continental United States or (B) returns an employee from an overseas assignment.

[FR Doc. 81-6186 Filed 2-23-81; 8:45 am]
BILLING CODE 6325-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 9100]

Sunkist Growers, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.
ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final commission approval, would require, among other things, that Sunkist Growers, Inc. ("Sunkist"), a Sherman Oaks, Cal. processor and marketer of cirtus fruit timely divest, in accordance with the terms of the order, the assets and properties constituting the Arizona Products Division ("APD"), and offer the purchaser, annually for four years, a prescribed volume of citrus fruit for processing. Sunkist would also be barred from using a non-Sunkist plant to process citrus fruit packed in Yuma County, Ariz. until it had first offered the opportunity to the acquirer of APD. Additionally, the order would require that the corporation, for specified periods, limit the number of its commercial packinghouse affiliations and refrain from acquiring, without prior Commission approval, any California or Arizona commercial citrus fruit processing plant or packinghouse.

DATE: Comments must be received on or before April 27, 1981.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W. Washington, D.C. 20580

FOR FURTHER INFORMATION CONTACT: FTC/C, E. Perry Johnson, Washington, D.C. 20580 (202) 523-3601.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

The agreement herein, by and between Sunkist Growers, Inc., a corporation, hereafter sometimes referred to as Sunkist, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Federal Trade Commission's Rules governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Sunkist Growers, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal offices located at 14130 Riverside Drive, Sherman Oaks, California.

2. Sunkist has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of Section 7, of the Clayton Act, as amended, 15, U.S.C. Section 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. Section 45, and has filed answers to said complaint denying said charges.

3. Sunkist admits all of the jurisdictional facts set forth in the Federal Trade Commission's complaint in this proceeding.

4. Sunkist waives:

(a) Any further procedural steps;

(b) The requirement that the Federal Trade Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order to Divest and Other Relief, sometimes referred to hereafter as the order, entered pursuant to this agreement.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Federal Trade Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Sunkist, in which event it will take such action as it may consider appropriate, or issue and serve its decision in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by Sunkist that the law has been violated as alleged in the complaint.

7. If this agreement is accepted by the Federal Trade Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 3.25(f) of the Commission's Rules, the Commission may without further notice to Sunkist (1) issue its decision containing the following Order to Divest and Other Relief in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondent's address as stated in paragraph 1 of this agreement shall constitute service. Sunkist waives any right it might have to any other manner of service.

8. This agreement contemplates that the complaint and Prehearing Order No. 1, dated October 28, 1977, may be used in construing the terms of the order, and that no agreement, understanding, representation, or interpretation not contained in the order or in this agreement may be used to vary or to contradict the terms of the order.

9. Sunkist has read the order contemplated hereby and understands that once the order has been issued, Sunkist will be required to file one or more compliance reports showing that it has fully complied with the order. Sunkist further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For the purpose of this order, the following definitions shall apply:

(a) "Sunkist" means Sunkist Growers, Inc.; its divisions and subsidiaries; its officers, directors, representatives, agents and employees acting as such; and its successors and assigns.

(b) "Affiliated packinghouse" or "packinghouse affiliated with" means a citrus packinghouse authorized by Sunkist to pack citrus for Sunkist grower-members. It does not include a packinghouse which packs citrus for Sunkist members only on a temporary, ad hoc, emergency basis.

(c) "Arizona Products Division" means (1) all facilities and assets located in Yuma, Arizona, owned by Sunkist which are used in connection with the conversion of citrus fruit into citrus products; (2) the cold storage facilities and assets, acquired by Sunkist, which previously had been part of the Southwestern Ice and Cold Storage Company; and (3) all agricultural lands used for effluent disposal from the above-described facilities. The facilities, assets and agricultural lands listed above shall include, but are not limited to, all land, buildings, equipment, supplies and machinery used by Arizona Products Division, together with any other additions and improvements thereto.

(d) "Citrus Packinghouse" means any facility which packs lemons, navel oranges, valencia oranges, grapefruit or tangerines for fresh fruit shipment on a regular basis, but does not include a facility which packs those varieties only on an auxiliary and overflow basis.

(e) "Commercial Packinghouse" means a citrus packinghouse located in California or Arizona which is not a packinghouse owned or operated by an association of growers meeting the requirements of Section 1 of the

Capper-Volstead Act, or by one or more growers packing only their own citrus fruit.

(f) "Commercial Citrus Processing Plant" means a processing plant, used or equipped to be used, in whole or in part, to process whole citrus fruit into juice, peel or oil products, which is not owned or operated by an association of growers meeting the requirements of Section 1 of the Capper-Volstead Act.

(g) "District III" means the prorate district established pursuant to the Agricultural Marketing Agreement Act of 1937, 7 U.S.C. §§601 et seq., as amended, and as specified in regulations thereunder, 7 C.F.R. §§907.66(c), 908.66(c) and 910.64(c), as of the date this order becomes final.

(h) "Lemon Administrative Committee" means the Lemon Administrative Committee established pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and regulations thereunder.

(i) "Orange Administrative Committees" means the Navel and Valencia Orange Administrative Committees established pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and regulations thereunder.

(j) "Product-grade citrus" means citrus which is received by processing plants for processing into citrus products.

I

It is ordered that within eighteen (18) months from the date this order becomes final, Sunkist shall divest as a unit, absolutely and in good faith, all properties and assets constituting the Arizona Products Division ("APD") of Sunkist in order to establish APD as a viable competitor in the citrus processing business. The divestiture shall be subject to the prior approval of the Federal Trade Commission. Pending divestiture, Sunkist shall take all measures necessary to maintain APD in its present condition and prevent any deterioration, except for normal wear and tear, of any of the assets to be divested which may impair their present operating abilities or market value.

II

It is further ordered that for each of the four (4) complete District III citrus seasons (approximately September-August) after the divestiture of APD or the four (4) years (twelve-month periods) beginning on the date of divestiture, whichever the acquirer of APD ("acquirer") shall elect, Sunkist shall offer to sell to the acquirer for processing by the acquirer a mixed supply of product-grade citrus grown in District III in the manner discribed below, unless otherwise modified by mutual agreement between Sunkist and the acquirer:

(a) the total volume of citrus to be offered for sale in the first three (3) seasons or years shall be determined as follows:

Sunkist's total seasonal or yearly tons of product-grade citrus from district III	Total tons Sunkist shall offer to sell to the acquirer of APD
0 to 100,000	45 pct of Sunkist's product-grade citrus from district III.
100,001 to 150,000	45,000
150,001 to 170,000	50,000
170,001 and above	55,000

(b) The total volume of citrus to be offered for sale in the fourth (4th) season or year shall be one-half (½) of the amount determined in accordance with subparagraph (a) of this paragraph.

(c) The volume of such citrus shall consist of a mix of varieties grown in District III that is equal to the proportion that each such variety bears to Sunkist's total District III volume of those varieties.

(d) Sunkist's total seasonal or yearly obligation to offer to sell citrus to the acquirer shall be reduced by an amount equal to any amount of citrus the acquirer obtains in that season or year for processing at APD from any citrus packinghouse affilliated with Sunkist on the date this order becomes final and not affiliated with Sunkist at the time the citrus is obtained from the packinghouse. In calculating Sunkist's obligation to offer to sell citrus under this order, the amount of citrus purchased by the acquirer from such a packinghouse shall be included in the total tons of Sunkist's product-grade citrus from District III computed on a yearly or seasonal basis, consistent with the acquirer's election referred to above.

(e) The amount of citrus which the acquirer agrees to buy from Sunkist shall be specified in a yearly contra[illegible]. Sunkist shall make the citrus available in daily quantities of not less than 100 tons and not more than 600 tons until Sunkist has met its total requirements specified in the yearly contract. If Sunkist's District III tonnage on any day is less than 100 tons Sunkist shall make all its District III citrus tonnage available to the acquirer, and the acquirer shall give reasonable notice to Sunkist whether the acquirer will take such tonnage. The contract shall be in accord with usual and customary industry terms and conditions, including reasonable terms and conditions to assure timely removal of the citrus from Sunkist's affiliated packinghouses.

(f) To determine Sunkist's obligations in paragraphs II (a), (b) and (c) of this order, the seasonal crop projections of the Orange Administrative Committees for oranges, the Lemon Administrative Committee for lemons, and Sunkist's regular seasonal projections for grapefruit, tangerines and other varieties shall be used. If during the season or year the crop projection or the actual crop production for any season or year varies from the projections establishing Sunkist's initial requirements for that season or year, the total amount and mix of citrus that Sunkist must sell under its contract or offer to sell under this order shall be adjusted to conform to the revised projections or to actual production as appropriate.

(g) The price Sunkist shall charge the acquirer for the citrus shall be no less favorable than the price at which Sunkist makes comparable sales of that variety of product-grade citrus to any other processing customer. If Sunkist has no such sales to any other processing customer, then the price shall be the prevailing market price for comparable sales of that variety.

III

It is further ordered that for a period of five (5) years after the divestiture of APD, if Sunkist uses a non-Sunkist processing plant to process the citrus of Sunkist growers packed in Yuma County, Arizona, it shall first offer to the acquirer the opportunity to process that citrus, provided the product will be processed to meet Sunkist's specifications and the charge for processing is commercially reasonable.

IV

It is further ordered that for a period of ten (10) years from the date this order becomes final Sunkist shall not directly or indirectly acquire, without the prior approval of the Federal Trade Commission, any stock interest in or assets of any commercial citrus processing plant in the states of California or Arizona.

V

It if further ordered that for a period of five (5) years from the date this order becomes final, there shall not be more than thirty-nine (39) commercial packinghouses affiliated with Sunkist unless prior approval of the Federal Trade Commission is obtained.

VI

It is further ordered that for a period of five (5) years from the date this order becomes final, Sunkist shall not directly or indirectly acquire, without the prior approval of the Federal Trade Commission, any stock interest in or assets of any citrus packinghouse in the states of California or Arizona, except for an interest resulting from foreclosure by Sunkist, in which case Sunkist shall divest such interest in the packinghouse within one year of the foreclosure.

VII

It is further ordered that within sixty (60) days after the date this order becomes final, and every sixty (60) days thereafter until Sunkist has fully complied with the provisions of paragraph I of this order, Sunkist shall submit to the Federal Trade Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying with or has complied with that provision. All compliance reports shall include, among other things that are required from time to time, a full description of contacts or negotiations with any party for the properties specified in paragraph I of this order and the identity of all such parties. Sunkist shall furnish to the Commission copies of all written communications to and from such parties, and all internal memoranda, reports and recommendations concerning divestiture.

On the date Sunkist divests APD and on every anniversary date of the divestiture thereafter for the following five years, Sunkist shall submit to the Commission a verified written report setting forth the manner and form in which it is complying or has complied with paragraph II of this order.

On the first anniversary of the date this order becomes final and on every anniversary date thereafter for the following five years, Sunkist shall submit to the Commission a verified written report setting forth the manner and form in which it has complied with paragraphs III, V and VI of this order.

On the first anniversary of the date this order becomes final and on every anniversary date thereafter for the following nine (9) years, Sunkist shall submit to the Commission a verified written report setting forth the manner and form in which it has complied or is complying with paragraph IV of this order.

VIII

It is further ordered that Sunkist notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other proposed change in the corporation, including but not limited to changes in the corporate by-laws of membership contracts, which may affect compliance obligations arising out of this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Sunkist Growers, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint, as modified by Pre-Hearing Order No. 1 (October 28, 1977), alleges that Sunkist has monopolized or attempted to monopolize, in the United States and Canada, the sale and distribution of fresh California-Arizona oranges, the sale and distribution of fresh lemons, and the manufacture and sale of lemon products.

In general the proposed order provides that Sunkist must: (1) divest its citrus processing plant located in Yuma, Arizona within 18 months; (2) offer substantial supplies of citrus to the divested plant for processing for four years (or seasons) following the divestiture; (3) give the divested plant for five years following the divestiture a right of first refusal to process the citrus of Yuma-area Sunkist members when Sunkist does not process the citrus in its own facilities; (4) refrain for 10 years from acquiring any commercial citrus processor located in California or Arizona without prior approval of the Federal Trade Commission; (5) limit its commercial packinghouse affiliations for 5 years without prior approval of the Federal Trade Commission; (6) refrain for 5 years from acquiring any stock interest in or assets of any citrus packinghouse located in California or Arizona, except for a possible interest resulting from foreclosure which must be divested within one year, without the prior approval of the Federal Trade Commission; (7) file periodic verified written compliance reports setting forth its compliance with the provisions of the order; and (8) provide the Federal Trade Commission at least 30 days notice prior to effecting changes in the corporation which may affect its compliance obligations arising from the order.

Paragraph I of the proposed consent order requires Sunkist to divest the Arizona Products Division (APD), one of its three processing divisions. APD, located in Yuma, Arizona, consists of a citrus processing plant, cold storage facilities, a waste-water treatment system and land. The division was acquired in 1974 by Sunkist. Before that acquisition, APD, then known as Growers Citrus Products, (GCP), was the second largest (Sunkist was, and is, the largest) processor of primary lemon products in the United States and the only non-Sunkist lemon and orange processor in Arizona.

The proposed order requires Sunkist to divest the plant and all post-acquisition improvements, together as one unit, in order to reestablish APD as a viable competitor in the citrus processing business. As a direct result of this provision, competition in the lemon products market should increase and Sunkist's dominance thereof should decrease. The provision may also indirectly increase competition in the fresh citrus markets. Sunkist's bylaws require Sunkist to market all the citrus produced by its growers. Since the divestiture of APD will reduce Sunkist's processing capacity, Sunkist may be required to limit the total volume of fresh and processed citrus it will agree to market. Thus, a larger percentage of citrus production may be available for competitors.

To further insure that the divested plant will be a viable competitor immediately upon divestiture, the proposed order provides for a supply contract, a right of first refusal for certain contract-processing, and a ten year ban on Sunkist's purchases of additional processing plants without prior Commission approval.

Paragraph II requires Sunkist to offer to sell the acquirer of APD a supply of product-grade citrus for four years (or seasons) following the divestiture. The subparagraphs establish the methods of calculating the total annual amounts of citrus to be offered, the varietal mix, the price and the volume of daily deliveries, and provide for an annual contract defining the terms and conditions of sale.

Subparagraph II(a) requires Sunkist to offer APD for three years (or seasons) between 45,000–55,000 tons of citrus, depending upon its total volume of District III production. (District III, as defined, means the prorate district established pursuant to the Agricultural Marketing Agreement Act of 1937 7 U.S.C. § 601 et seq., as amended, and regulations thereunder.) Subparagraph II(b), which applies only to the fourth year (or season), reduces the amount Sunkist must offer by one-half. The reduction in the volume Sunkist must offer in the fourth year creates an economic incentive for the acquirer of the plant to seek out sources of supply apart from that provided by Sunkist, thereby further contributing to the objective of establishing a viable competitor after the supply requirement expires.

Subparagraph II(c) provides the method for determining the varietal mix of citrus that Sunkist is obligated to supply. Each variety is to be supplied in the same ratio that Sunkist's total production of each variety bears to Sunkist's total production of all varieties in District III. The varietal mix recognizes that the APD plant is capable of processing more than just lemons and serves to lengthen its processing season.

The remaining subparagraphs of paragraph II provide further specifics for calculating Sunkist's supply obligation under the schedule in subparagraphs II(a) and (b), for determining the daily amount to be supplied, and the price Sunkist may charge for the supplies provided.

Subparagraph II(d) provides for a "set-off" to be applied in calculating the total amount of citrus Sunkist must supply in accordance with the schedule in II(a) and (b). This provision recognizes that to the extgent that packinghouses disaffiliate from Sunkist and sell their product grade citrus to the acquirer of the APD plant during the term of Sunkist's supply obligation, the plant's need for supply from Sunkist correspondingly decreases. This subparagraph is operative only if a Sunkist packinghouse subsequently disaffiliates from Sunkist and sells citrus to APD. If this sequence of events occurs then the total amount of citrus Sunkist must supply the plant under the schedule is reduced by the same amount that the disaffiliated packinghouse(s) sells to the plant. However, the schedule provides that the amount of product grade citrus Sunkist must supply decreased as its production decreases. To prevent a double count of the set-off, the amount that Sunkist is entitled to set off from its obligation must first be added to its production figure to determine the amount of its obligation before the set-off.

Subparagraph II(e) provides both for a written supply contract between Sunkist and the acquirer and for the daily amounts in which the citrus will be supplied. While the proposed consent requires Sunkist to make available a certain amount and mix of citrus to APD, it does not obligate the plant to buy all or any of the citrus. A contract specifying the amounts APD intends to purchase will provide a degree of certainty for Sunkist and allow Sunkist to rationally anticipate its own processing needs. Sunkist must also offer to supply the citrus in daily quantities to 100 to 600 tons. These figures correspond to the plant's minimum and maximum operating capacity (including storage). The remaining contract terms are to be negotiated between Sunkist and APD in accord with usual and customary industry terms. This flexibility will enable the plant to negotiate a contract accounting for its business needs.

Since exact total citrus production figures are not available until after the season is over, subparagraph II(f) provides for use of industry-recognized estimates in determining, at the beginning of the season, Sunkist's obligation under subparagraphs II(a), (b) and (c). As actual figures become available the subparagraph allows for modification of the initial obligation to conform with the schedule of amounts and varietal mix

required by subparagraphs II(a), (b) and (c). Subparagraph II(g) assures that the acquirer will be charged a price no less favorabvle than that charged by Sunkist to other processors. In the absence of sales by Sunkist to others, the prevailing market price is to be charged.

Paragraph III is intended to further assure that the divested plant will become a viable competitor by providing that the plant will have a right of first refusal if Sunkist uses a non-Sunkist processor for the product citrus fruit of its grower members packed in Yuma, Arizona.

Paragraph IV will prevent Sunkist from diminishing competition in the citrus processing industry by banning it for 10 years from acquiring any commercial citrus processing plant located in California or Arizona without prior approval of the Federal Trade Commission.

Paragraph V limits, for five years, the number of Sunkist affiliations with commercial packinghouses. Packinghouses are the vital link between growers, marketers and processors. Without packinghouse affiliations, fresh citrus marketers and processors do not have access to citrus supplies. A substantial number of the industry's approximately 135 packinghouses are commercially owned and operated. Access to those houses by Sunkist's competitors is critical to the competitive health of the western citrus industry.

The year before the issuance of the complaint Sunkist had affiliations with 51 commercial packinghouses. The proposed order limits that number to 39. This reduction will assure competitive access to a significant number of the industry's commercial houses without interfering with Sunkist's right, as a Capper-Volstead agricultural cooperative, to continue affiliating with cooperative packinghouses. Moreover, the five-year duration of this limitation should enable competitors to establish sound relationships with a substantial number of packinghouses to improve competition and thereby provide viable alternatives to Sunkist's marketing operations.

Paragraph VI prevents Sunkist for 5 years from acquiring any stock interest in or assets of any citrus packinghouse, without prior approval of the Federal Trade Commission, except for a temporary interest resulting from foreclosure which must be divested within one year. This provision is intended to prevent Sunkist from evading the limitation on commercial packinghouse affiliations specified in paragraph V.

Paragraphs VII and VIII are intended to assure compliance with the order by requiring Sunkist to file periodic, written, verified compliance reports and to provide advance notice of any change in the corporation which may effect compliance obligations arising out of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas

Secretary.

[FR Doc.81-6044 Filed 2-23-81; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 161

[Docket No. 80N-0385]

Frozen Lobsters, Rock Lobsters, Spiny Lobsters, and Slipper Lobsters; Intent to Establish Standard

Correction

On page 9965 in the issue for Friday, January 30, 1981, a document appears which corrects FR Doc. 80-34281 published at page 73095 on November 4, 1980. The correction contained three items. Correction paragraph "(3)" is incorrect and should be disregarded. In its place, insert the following:

(3) In the last column, under Annex C-1, in the table, under "*Abnormal colour*", correct the second and third lines to read:

". . . lb), or tail units $<_s$ 300g 10 oz."

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 204

Pacific Ocean Between Point Sal and Point Conception, California; Danger Zone

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Corps of Engineers proposes to amend the regulations which establish danger zones in the Pacific Ocean near Vandenberg Air Force Base (VAFB) California. This amendment if approved will extend the period of use for the danger zones, combine 33 CFR 204.202 and 33 CFR 204.202a and make editorial changes to reflect a recent reorganization and redesignation by the Air Force.

DATE: Comments must be received on or before March 27, 1981.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Roman Zawadzki at (213) 688-5606 or Mr. Ralph T. Eppard at (202) 272-0200.

SUPPLEMENTARY INFORMATION: Regulations were promulgated under 33 CFR 204.202 and 204.202a on October 11, 1960, and May 28, 1971, respectively, to govern the use and navigation of danger zones located in the Pacific Ocean between Point Sal and Point Conception, Santa Barbara County, California. These danger zones were established to meet security requirements of the Space and Missile Test Center (SAMTEC) VAFB and the exceptional hazards to persons and property due to missile launches and related activities.

At the request of the Air Force we are proposing to make the following amendments:

(1) The regulations for danger zones 1-8 (33 CFR 204.202) and for danger zones 9-11 (33 CFR 204.202a) are being revised to combine the two regulations under § 204.202 and accordingly to delete § 204.202a. The danger zones are adjacent to each other and the regulations as presently published are duplicative.

(2) Change the review period from 3 years to 10 years to reduce paperwork and the related administrative burden. The Air Force estimates that the present rate of launchings per month will remain unchanged over the next ten years.

(3) Change all references to "Commander, SAMTEC at Vandanberg AFB" to read "Commander, Western Space and Missile Center at Vendenberg AFB." This amendment is editorial in nature and reflects a recent reorganization and redesignation.

(4) Remove §204.202(b)(2) which prohibited the stopping of vessels within a 3 mile radius of Purisima Point in Zone 8.

Accordingly, we propose to amend 33 CFR 204.202 by adding new paragraphs (a)(2) (IX), (X), and (XI), removing (b)(2) renumbering subsections in paragraph (b) and removing § 204.202a as set forth below. For clarity § 204.202 is reprinted in its entirety.

Note.—The Corps of Engineers has determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under EO 12044, Improving Government Regulations. The Corps of Engineers has also determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to the proposed rule change.

Accordingly, §204.202 is proposed to be revised to read as follows:

204.202 Pacific Ocean, Western Space and Missile Center (WSMC), Vandenberg AFB, California; danger zones.

(a) The area. (1) The waters of the Pacific Ocean in an area extending seaward from the shoreline a distance of

about three nautical miles and basically outlined as follows:

Station	Latitude	Longitude
Point Sal	34°54'08"	120°40'15"
1	34°54'08"	120°44'00"
2	34°52'48"	120°44'00"
3	34°50'00"	120°40'30"
4	34°44'50"	120°42'15"
5	34°41'50"	120°40'12"
6	34°35'12"	120°42'45"
7	34°33'00"	120°41'05"
8	34°30'40"	120°37'29"
9	34°30'40"	120°36'10"
10	34°30'40"	120°37'29"
11	34°24'18"	120°30'00"
12	34°23'34"	120°27'05"
13	34°24'21"	120°24'40"
14	34°27'20"	120°24'40"
Point Sal	34°54'08"	120°40'15"

(2) The danger area described in paragraph (a)(1) of this section will be divided into zones in order that certain firing tests and operations, whose characteristics as to range and reliability permit, may be conducted without requiring complete evacuation of the entire area. These zones are described as follows:

(i) *Zone 1.* An area extending seaward about three nautical miles from the shoreline beginning at latitude 34°30'40", longitude 120°30'10" thence due west to latitude 34°30'40", longitude 120°37'29"; thence due north to the shoreline at latitude 34°33'15", longitude 120°37'29".

(ii) *Zone 2.* An area extending seaward about three nautical miles from the shoreline beginning at latitude 34°33'15", longitude 120°37'29"; thence due south to latitude 34°30'40", longitude 120°37'29"; thence to latitude 34°33'00", longitude 120°41'05"; thence to latitude 34°34'32", longitude 120°42'30"; thence due east to the shoreline at latitude 34°34'32", longitude 120°39'03".

(iii) *Zone 3.* An area extending seaward about three nautical miles from the shoreline beginning at latitude 34°34'32", longitude 120°39'03"; thence due west to latitude 34°34'32", longitude 120°42'15"; thence to latitude 34°35'12", longitude 120°42'45"; thence to latitude 34°37'15", longitude 120°41'55"; thence due east to the shoreline at latitude 34°37'15"; longitude 120°38'00".

(iv) *Zone 4.* An area extending seaward about three nautical miles from the shoreline beginning at latitude 34°37'15", longitude 120°38'00"; thence due west to latitude 34°37'15", longitude 120°41'55"; thence to latitude 34°40'00"; longitude 120°40'50"; thence due east to the shoreline at latitude 34°40'00", longitude 120°36'45".

(v) *Zone 5.* An area extending seaward about 3 nautical miles from the shoreline beginning at latitude 34°40'00", longitude 120°36'45"; thence due west to latitude 34°40'00"; longitude 120°40'50"; thence to latitude 34°41'50", longitude 120°40'12"; thence to latitude 34°44'50", longitude 120°42'15"; thence to latitude 34°45'28", longitude 120°42'05"; thence due east to the shoreline at Purisima Point latitude 34°45'28", longitude 120°38'15".

(vi) *Zone 6.* An area extending seaward about 3 nautical miles from the shoreline beginning at Purisima Point latitude 34°45'28", longitude 120°38'15"; thence due west to latitude 34°45'28", longitude 120°42'05"; thence to latitude 34°50'00", longitude 120°40'30" thence due east to the shoreline at latitude 34°50'00", longitude 120°36'30".

(vii) *Zone 7.* An area extending seaward about 3 nautical miles from the shoreline beginning at latitude 34°50'00", longitude 120°36'30"; thence due west to latitude 34°50'00", longitude 120°40'30"; thence to latitude 34°52'48", longitude 120°44'00"; thence to latitude 34°54'08", longitude 120°44'00"; thence due east to Point Sal latitude 34°54'08", longitude 120°40'15".

(viii) *Zone 8.* An area extending seaward with a radius of 3 nautical miles centered at Purisima Point latitude 34°45'28", longitude 120°38'15".

(ix) *Zone 9.* An area extending seaward about 3 nautical miles from the shoreline beginning at latitude 34°30'40", longitude 120°30'10"; then due west to latitude 34°30'40", longitude 120°37'29"; thence to latitude 34°26'56", longitude 120°33'06"; thence due east to the shoreline at latitude 34°26'56", longitude 120°28'10".

(x) *Zone 10.* An area extending seaward about 3 nautical miles from the shoreline beginning at latitude 34°26'56", longitude 129°28'10"; thence due west to latitude 34°26'56", longitude 120°33'06"; thence to latitude 34°24'18", longitude 120°30'00"; thence to latitude 34°23'34", longitude 120°27'05"; thence shoreward to latitude 34°26'56", longitude 120°28'10".

(xi) *Zone 11.* An area extending seaward about 3 nautical miles from the shoreline beginning at latitude 34°26'56", longitude 120°28'10"; thence seaward to latitude 34°23'34"; longitude 120°27'05"; thence to latitude 34°24'21", longitude 120°24'40"; thence due north to the shoreline at latitude 34°27'20", longitude 120°24'40".

(b) The regulations. (1) Except as prescribed in this section or in other regulations, danger zones will be open to fishing, location of fixed or movable oil drilling platforms and general navigation without restrictions.

(2) The impacting of missile debris from launch operations will take place in any one or any group of zones in the danger areas at frequent and irregular intervals throughout the year. The Commander, WSMC, will announce in advance, the closure of zones hazarded by missile debris impact. Such advance announcements will appear in the weekly "Notice to Mariners." For the benefit of fishermen, small craft operators and drilling platform operators, announcements will also be made on radio frequency 2182 kc, 2638 kc, VHF channel 6 (156.30 MHZ), VHF channel 12 (156.60 MHZ), and VHF channel 16 (156.80 MHZ) for daily announcements. Additionally, information will be posted on notice boards located outside Port Control Offices (Harbormasters) at Morro Bay, Port San Luis, Santa Barbara, Ventura, Channel Islands, and Port Hueneme Harbors, and any established harbor of refuge between Santa Barbara and Morro Bay.

(3) All fishing boats, other small craft, drilling platforms and shipping vessels with radios are requested to monitor radio frequency 2182 kc, 2638 kc, VHF channel 6 (156.30 MHZ), channel 12 (156.60 MHZ), or channel 16 (156.80 MHZ) while in these zones for daily announcements of zone closures.

(4) When a scheduled launch operation is about to begin, radio broadcast notifications will be made periodically, starting at least 24 hours in advance. Additional contact may be made by surface patrol boats or aircraft equipped with a loudspeaker system. When so notified, all vessels shall leave the specified zone or zones immediately by the shortest route.

(5) The Commander, WSMC, will extend full cooperation relating to the public use of the danger area and will consider every reasonable request for its use in light of requirements for national security and safety of persons and property.

(6) Where an established harbor of refuge exists, small craft may take shelter for the duration of zone closure.

(7) Fixed or movable oil drilling platforms located in zones identified as hazardous and closed in accordance with this regulation shall cease operations for the duration of the zone closure. The zones shall be closed continuously no longer than 72 hours at any one time. Such notice to evacuate personnel shall be accomplished in accordance with procedures as established between the Commander WSMC and the oil industry in the adjacent waters of the outer Continental Shelf.

(8) No seaplanes, other than those approved by the Commander, WSMC, may enter the danger zones during launch closure periods.

(9) The regulations in this section shall be enforced by personnel attached

to WSMC and by such other agencies as may be designated by the Commander, WSMC.

(10) The regulations in this section shall be in effect until further notice. They shall be reviewed again during December 1990.

§ 204.202a [Removed]

Section 204.202a Pacific Ocean, Space and Missile Test Center (SAMTEC) Vandenberg AFB, California; danger zone (Removed).

Authority: 33 U.S.C. 1, 3.

Dated: February 12, 1981.

Forrest T. Gay III,

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

[FR Doc. 81-6046 Filed 2-23-81; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1760-3]

Approval and Promulgation of Nonattainment Area Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Extension of the comment period.

SUMMARY: On January 27, 1981, EPA proposed rulemaking in the **Federal Register** (46 FR 8583) on proposed revisions to the total suspended particulate (TSP) portion of the Ohio State Implementation Plan (SIP). These revisions were for the primary nonattainment area of Middletown, Ohio. The public comment period was to close on February 26, 1981. For the reasons specified below, EPA is extending the public comment period to March 19, 1981.

DATE: Comments are due on or before March 19, 1981.

ADDRESS: Copies of the SIP revision are available for inspection at the following addresses:

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

Ohio Environmental Protection Agency, 361 East Broad Street, Columbus, Ohio 43216

WRITTEN COMMENTS SHOULD BE SENT TO: Mr. Gary Gulezian, Chief, Regulatory Analysis Section, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clarizio, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, (312) 886-6035.

SUPPLEMENTARY INFORMATION: On February 18, 1981, the State of Ohio submitted to EPA the official TSP SIP revision for the primary nonattainment area of Middletown, Ohio. Included with this submittal was the modeling analysis conducted for the area. In addition to the modeling analysis, the State committed to submit by March 9, 1981 the enforceable ARMCO control strategy.

In the January 27, 1981 **Federal Register** EPA noted that upon receipt of the official Middletown SIP revision, which included the modeling analysis conducted for the area and the enforceable ARMCO control strategy, a separate notice would be published in the **Federal Register.** That notice would announce the availability of these documents and would extend the public comment period so as to provide interested individuals additional time to comment on the acceptability of these documents.

The purpose of today's **Federal Register** is to announce receipt and availability of the official Middletown TSP SIP revision and to extend the comment period provided in the January 27, 1981 **Federal Register.** The official Middletown TSP SIP revision contains the modeling analysis conducted for the area and is presently available for inspection. The enforceable ARMCO control strategy will be available for inspection after March 9, 1981.

The comment period provided in the January 27, 1981 **Federal Register** is extended to March 19, 1981 to provide interested individuals an opportunity to comment. After the public comment period has closed, EPA will evaluate and respond in the **Federal Register** to any significant issues raised by a commentor and will proceed with the appropriate rulemaking action.

Dated: February 18, 1981.

Valdas V. Adamkus,

Acting Regional Administrator.

[FR Doc. 81-6352 Filed 2-23-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Parts 122, 123, 124

[En-FRL 1759-4]

Public Meeting on Consolidated Permit Application Forms 1, 2b, and 2c

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: EPA will hold a public meeting on March 30, 1981 to discuss and receive comments on the public experience with Consolidated Permit Application Forms 1, 2b, and 2c. These forms were published in the **Federal Register** on May 19, 1980 along with the regulations for the Consolidated Permit Program.

DATES: The hearing will be held on March 30, 1981. Anyone wishing to make an oral statement at the meeting should notify Tom Laverty in writing at the address below by no later than March 25, 1981.

ADDRESS: The location of the meeting is the Environmental Protection Agency, Waterside Mall, Room 3906, 401 M Street, SW., Washington, D.C. 20460.

Registration—8:30–9:00 a.m.

Comments will be received from 9:00 a.m. until the comments are concluded, or no later than 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Contact Tom Laverty, Permits Division (EN-336), Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 426-7010.

SUPPLEMENTARY INFORMATION: Consolidated Permit Application Forms 1, 2b, and 2c are the application forms for use by certain categories of dischargers seeking permits under the National Pollutant Dishcarge Elimination System (NPDES). Form 1 is the general application form for use whenever requesting NPDES permits (or other permits under the Consolidated Permit Program). Form 2b is a supplemental NPDES form for concentrated animal feeding operations and aquatic animal production facilities. Form 2c is a supplemental form for existing industrial dischargers applying for NPDES permits. Facsimiles of each of the forms appeared in the **Federal Register** on May 19, 1980 (45 FR 3355-79). Copies of the forms can be obtained by contacting one of EPA's Regional offices, which are listed in Appendix I.

In May 1980 EPA received a one-year clearance for use of Forms 1, 2b, and 2c from the Office of Management and Budget. EPA will seek renewal of that clearance during spring 1981. As part of the renewal process, EPA is conducting an evaluation of the performance of the forms during the first year of their use. The public meeting is one component of that evaluation. The other two components are external and internal evaluations of the information requirements of the forms.

The purpose of the meeting is to focus on several issues, including:

- The time and resources required to complete the forms;

• Ways in which the forms or their instructions could be clarified; and

• Significant issues related to information requirements which should be addressed in policy statements by the Office of Water Enforcement of EPA.

Dated: February 18, 1981.

Jeffrey J. Miller,

Acting Assistant Administrator for Enforcement.

Appendix I

Permits Branch, Region I, Environmental Protection Agency, John F. Kennedy Federal Bldg., Boston, Mass. 02203, (617) 223–5061

Permits Branch, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007, (212) 264–9861

Water Enforcement Branch, Region III, Environmental Protection Agency, Curtis Bldg., 6th and Walnut Streets, Philadelphia, PA. 19106, (215) 597–9077

Water Enforcement Branch, Region IV, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30308, (404) 881–4727

Permits Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2105

Permit and Support Branch, Region VI, Environmental Protection Agency, 1201 Elm Street, First International Bldg., Dallas, Texas 75270, (214) 767–2600

Permits Branch, Region VII, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, (816) 374–5493

Permits Administration and Compliance Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203, (303) 837–3895

Permits Branch, Region IX, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, (415) 556–3450

Water Compliance and Permits Branch, Region X, Environmental Protection Agency, 1200 6th Avenue, Seattle, Wash. 98101, (206) 442–1220

[FR Doc. 81-6168 Filed 2-23-81; 8:45 am]

BILLING CODE 6560-33-M

40 CFR Part 123

[SW-4-FRL 1760-6]

Tennessee's Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Suspension of Decision Process on Tennessee's Application.

SUMMARY: By Notice dated November 28, 1980, (45 FR 79118), EPA announced review of Tennessee's Application for Interim Authorization to administer a Hazardous Waste Management Program under the Resource Conservation and Recovery Act (RCRA). On December 29, 1980, a public hearing was held concerning Tennessee's Application. By Notice dated January 16, 1981, (46 FR 3924) EPA announced that the comment period on Tennessee's Application was being reopened, at the request of several organizations and individuals, and the final date for receipt of written comments was January 30, 1981.

Today EPA is announcing that Tennessee has requested that EPA stay consideration of the State's Application for Interim Authorization, submitted on October 30, 1980. This stay is requested so that the application may be amended to include revisions in State legislation that are likely to be enacted in the 1981 session of Tennessee General Assembly now in progress. The revisions would amend statutory provisions on coverage of agricultural wastes, State inspections of generators of hazardous waste, and the State's authority to provide propietary information to EPA upon request without restriction.

Further, the stay would allow the State to seek statutory or regulatory amendments, as necessary, to provide for public participation in the State enforcement process.

These anticipated amendments to the Tennessee Application will have an important impact on EPA's consideration of the substantial equivalence of the State's program.

DATE: EPS's decision process on Tennessee's Application for Interim Authorization is hereby suspended until June 17, 1981.

FOR FURTHER INFORMATION CONTACT: Patricia S. Zweig, Residuals Management Branch, Environmental Protection Agency 345 Courtland Street, NE, Atlanta, GA 30365, Telephone: 404/881–3966.

Dated: February 17, 1981.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 81-6153 Filed 2-23-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5920]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of West Dundee, Kane County, Illinois.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the *Cardunal Free Press* on September 17, 1980 and September 24, 1980, and at 45 FR 67704 on October 14, 1980, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: See table below:

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Village of West Dundee, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V), West Dundee, Kane County	Fox River	At downstream corporate limit	*717
			At upstream corporate limit	*720
		Sleepy Creek	Confluence with Fox River	*717
			About 100 feet downstream Illinois Route 31	*727
			About 100 feet upstream of Market Loop	*732
			About 1,000 feet upstream of Market Loop	*733

Maps available for inspection at the Village Clerk's Office, Village Hall, 102 South Second Street, Dundee, Illinois.

Send comments to Honorable Thomas Warner, Village President, Village of West Dundee, Village Hall, 102 South Second Street, Dundee, Illinois 60118.

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

Issued: February 6, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-5899 Filed 2-23-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5701]

Revision of Proposed Flood Elevation Determinations for Pennington County, South Dakota, Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Pennington County, South Dakota.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 56971 on October 3, 1979 and in the *Pennington County Courant*, published on or about September 20, 1979, and September 27, 1979, and in the *Rapid City Journal*, published on or about September 21, 1979 and September 28, 1979, and in the *Hill City Prevalier*, published on or about September 20, 1979 and September 27, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Pennington County Courthouse, Rapid City, South Dakota.

Send comments to: the Honorable Warner Hickey, Pennington County Courthouse, Rapid City, South Dakota.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, in Alaska or Hawaii, call Toll Free Line (800–424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Pennington County, South Dakota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Box Elder Creek (At Blackhawk).	70 feet upstream from center of State Highway 79.	*3,463
Spring Creek (In Hill City).	At Downstream Limit of Detailed Study.	*4,946
Spring Creek (At Hill City).	60 feet upstream from center of Poplar Street.	*4,996
Rapid Creek (East of Rapid City).	Intersection of Crook and center of County Road 255.	*2,969
	Intersection of County Road 210 and Willow Drive.	*3,025
	Intersection of Valley Drive and Orchard Lane.	*3,120
	Intersection of Valley Drive and Long Acres Lane.	*3,137
Rapid Creek (East of Rapid City) Overflow.	Area at overflow from Rapid Creek.	*3,098
Unamed Tributary	70 feet upstream from center of Jolly Lane County Road 274 (East 39th Street).	*3,099
Unamed Tributary	60 feet upstream from center of Interstate 90 Access Road.	*3,159
Rapid Creek (In Rapid City).	130 feet downstream from center of Park Canyon Road County Road 2334 (at most upstream Rapid City Corporate limits).	*3,456
Rapid Creek (In Dark Canyon).	Intersection of Creek and center of Dark Canyon Approach Road.	*3,579
Rapid Creek (Hisega to Pactola).	Intersection of Creek and center of Thunder Falls Road County Road 200 (Approximately 600 feet South from the intersection of County Road 200 and State Highway 44).	*4,171
Deer Creek	70 feet upstream from center of an Unamed Road (approximately 650 feet upstream from the confluence with Rapid Creek).	*4,323
Cleghorn Canyon	40 feet upstream from center of Harris Approach Road.	*3,421

Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Red Rock Canyon	Intersection of Red Rock Canyon and center of Rapid City Corporate limits.	*3,423
Robbinsdale Drain	Area south of Rapid City Corporate limits, approximately 1200 feet upstream from center of State Highway 79.	*3,205

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

Issued: February 5, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-5912 Filed 2-23-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5947]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Ithaca, Tompkins County, New York, previously published at 45 FR 77086 on November 21, 1980, and in the *Ithaca Journal* on October 29, 1980, and November 5, 1980.

EFFECTIVE DATE: February 24, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080) Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Ithaca, Tompkins County, New York, previously published at 45 FR 77086 on November 21, 1980, and in the *Ithaca Journal* on October 29, 1980, and November 5, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Due to a clerical error, the elevation at approximately 60 feet upstream North Aurora Street, under the Source of Flooding of Sixmile Creek, was incorrectly published as 398 feet (National Geodetic Vertical Datum). It should be amended to read 408 feet in elevation. The corresponding Flood Insurance Study (profile) and Flood Insurance Rate Map were correct as printed.

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

Issued: February 6, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-5911 Filed 2-23-81; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-83; TM-3679]

FM Broadcast Station in Owenton, Kentucky; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Owenton, Kentucky, in response to a petition filed by Charles N. Cutler. The proposed channel would provide a first local FM service to Owenton.

DATES: Comments must be filed on or before April 13, 1981, and reply comments on or before May 4, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 10, 1981.

Released: February 19, 1981.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making [1] filed by Charles N. Cutler ("petitioner") which seeks the assignment of Channel 288A to Owenton, Kentucky, as that community's first FM assignment. Petitioner failed to state that he would apply for the channel, if assigned. He is requested to make a commitment to that effect in comments.

2. Owenton (pop. 1,280),[2] seat of Owen County (pop. 7,470) is located approximately 88 kilometers (55 miles) northeast of Louisville, Kentucky. It has no local aural broadcast service.

3. Petitioner has failed to provide information as to the need for an FM station for Owenton. He should do so in the comments to this proposal.

4. Petitioner originally filed this request for an Owenton FM assignment as supplemental comments to an earlier request to assign Channel 288A to Warsaw, Kentucky. However, petitioner indicated that he could find no satisfactory non-short-spaced site for that proposal. Thus, he amended to specify Owenton presumably because spacing considerations would not be a problem. However, and Owenton FM assignment on Channel 288A would result in a 12.3 kilometer (7.7 mile) short spacing to WMST–FM (Channel 288A) in Mt. Sterling, Kentucky. Thus a site restriction of 12.3 kilometers (7.7 miles) northwest of Owenton must be imposed. Petitioner should furnish information demonstrating that a city grade signal could be provided to all of Owenton from a restricted site.

5. Since Owenton is located within 402 kilometers (250 miles) of the U.S. Canadian border, the proposed assignment of Channel 288A to Owenton, Kentucky, requires coordination with the Canadian Government before it can be assigned.

6. In view of the fact that the proposed FM channel could provide a first local aural broadcast service to Owenton, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with regard to Owenton, Kentucky as follows:

City	Channel No.	
	Present	Proposed
Owenton, Kentucky		288A

7. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are

[1] Public Notice of the petition was given on June 11, 1980, Report No. 1234.

[2] Population figures are taken from the 1970 U.S. Census.

contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before April 13, 1981, and reply comments on or before May 4, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

10. The Commission has determined that the relevant provision of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504, and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assigned a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-6190 Filed 2-23-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73]

[BC Docket No.-81-82; RM-3686]

FM Broadcast Station Sparks, Nevada; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Sparks, Nevada, in response to a petition filed by Pepper Schultz. The proposed channel could provide for a second local FM broadcast service to Sparks.

DATES: Comments must be filed on or before April 13, 1981, and reply comments on or before May 4, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 10, 1981.

Released: February 19, 1981.

By the Chief, Policy and Rules Division.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by Pepper Schultz proposing the assignment of Channel 221A to Sparks, Nevada, as that community's second FM assignment.

(b) The channel can be assigned in compliance with the minimum distance separation requirements.

(c) Petitioner states that he would apply for the channel, if assigned.

2. *Community Data:*

(a) *Location:* Sparks, in Washoe County, is located approximately 40 kilometers (25 miles) north of Carson City.

(b) *Population:* Sparks—24,187;[2] Washoe County—121,068.

(c) *Local Aural Broadcast Service:* Daytime-only AM Station KWRL and Channel 252A unoccupied with one application pending.[3]

3. Petitioner asserts that the population of Sparks has doubled since it was assigned a Class A channel fourteen years ago. Thus, petitioner asserts that Sparks is in need of an additional FM service.

4. *Preclusion Consideration:* Petitioner claims that no communities would be precluded as a result of the assignment of Channel 221A to Sparks. Preclusion would be caused on Channel 221A within 65 miles, on Channel 222 within 102 miles, on Channel 223 within 65 miles, and on Channel 224A within 15 miles. Petitioner listed a number of communities within the precluded area, but did not list alternative channels. He should do so in his comments to this proposal.

5. Reno, Nevada, located within 16 kilometers (10 miles) of Sparks, is assigned four FM frequencies (all

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[1] Public Notice of the petition was given on July 7, 1980, Report No. 1238.

[2] Population figures are taken from the 1970 U.S. Census.

[3] Petitioner previously applied for this channel but has requested dismissal of the application so as to avoid competing with another applicant. Also there is a pending proposal in BC Docket No. 80-91 to substitute Channel 272A at Sparks.

currently being used): KNEV (Channel 238), KOZZ (Channel 289), KRNO (Channel 295) and KSRN (Channel 283). These stations provide at least a 60 dBu signal over Sparks.

6. Comments are invited on the proposal to amend the FM Table of Assignments (Section 73.202(b)) with regard to Sparks, Nevada, as follows:

City	Channel No.	
	Present	Proposed
Sparks, Nevada	252A	252A, 221A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before April 13, 1981, and reply comments on or before May 4, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-6192 Filed 2-23-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-81; RM-3687]

FM Broadcast Station Crockett, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Crockett, Texas, in response to a petition filed by Amanda Kelton. The proposed assignment would provide a second local FM service to Crockett.

DATES: Comments must be filed on or before April 13, 1981 and reply comments on or before May 4, 1981.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W. Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 10, 1981.

Released: February 20, 1981.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making[1] filed by Amanda Kelton ("petitioner"), requesting the assignment of Channel 228A to Crockett, Texas, as that community's second FM assignment.[2] Petitioner expressed an interest in applying for the channel, if assigned.

2. Crockett (population 6,616),[3] seat of Houston County (population 17,855) is located approximately 176 kilometers (110 miles) north of Houston, Texas. It is served locally by daytime only AM Station KIVY and Station KIVY-FM (channel 224A).

3. Petitioner submitted sufficient demographic and economic information to demonstrate the need for a second FM assignment.

[1] Public Notice of the petition was filed on July 7, 1980, Report No. 1238.

[2] Originally, petitioner requested that channel 244A be assigned to Crockett. This request, however, conflicted with RM-3783 which proposed the substitution of FM Channel 244A for FM Channel 232A at Palestine, Texas. Latin American Broadcasting Company ("petitioner" of RM-3783) filed comments, supporting the modification of petitioner's request.

[3] Population figures are taken from the 1970 U.S. Census.

4. *Preclusion Considerotion:* Petitioner claims that the assignment of Channel 228A to Crockett will cause preclusion only on the co-channel within 65 miles. It further states that there are no communities in the precluded area with a population greater than 1,000.

5. In view of the fact that the proposed FM channel could provide a second local broadcast service to Crockett, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to Crockett, Texas, as follows:

City	Channel No.	
	Present	Proposed
Crockett, Texas	224A	224A, 228A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *NOTE:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before April 13, 1981, and reply comments on or before May 4, 1981.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

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INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1100, 1101, 1131, and 1131a

[Ex Parte No. MC-67 (Sub-8)]

Rules Governing Temporary Authority and Emergency Temporary Authority

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules.

SUMMARY: The Commission is proposing to revise certain temporary authority (TA) and emergency temporary authority (ETA) procedures. The proposed rules would implement Section 23 of the Motor Carrier Act of 1980. In addition, the rules would make minor substantive changes and would unify, to the extent possible, all of the rules having an impact in this area—including those governing motor carriers of passengers and water carriers. This action is proposed to clarify the procedures, and to make them more efficient.

DATES: Comments shall be submitted on or before April 10, 1981.

ADDRESSES: An original and 15 copies should be sent to: Ex Parte No. MC-67 (Sub-8), Room 5416, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Ombudsman's Office, 202-275-7440
Paul Grossman, 202-275-7976
Jane Alspaugh, 202-275-1873
Donald J. Shaw, Jr., 202-275-7292

SUPPLEMENTARY INFORMATION:

Statutory Changes

Section 23 of the Motor Carrier Act of 1980 [Pub. L. No. 96-296, 94 Stat. 793 (1980)] made changes in 49 U.S.C. 10928 which cover temporary and emergency temporary authority. These changes relate exclusively to the motor carriage of property. The Commission may now grant a motor carrier of property temporary authority (TA) for a period of not more than 270 days. The Commission must take final action upon such an application no later than 90

days after the application is filed with the Commission.

The statute now makes specific statutory reference to emergency temporary authority (ETA). The Commission may grant a motor carrier of property ETA for not more than 30 days and may extend the ETA for a period of not more than 90 additional days. Final action on ETA applications must be made no later than 15 days after the application is filed with the Commission.

The Commission may continue to grant motor carriers of passengers and all water carriers temporary authority for a period of not more than 180 days. There is no specific statutory reference to emergency temporary authority for water carriers and motor carriers of passengers.

Summary of Proposed Rules

The proposed revisions are set forth in the appendix. The following is a summary of the changes which codify the revisions to the Act and modify, clarify, and streamline existing TA and ETA rules. In the event that the proposed changes are adopted, appropriately revised application forms will be provided. In the interim, applicants shall continue to use existing application forms.

1. *Automatic extension of ETA.* The proposed rules expand the time period for which an ETA is automatically extended when a corresponding TA application is filed within 15 days of the date of filing the initial ETA application. An applicant for ETA may request in its application an automatic extension of ETA for a period of 90 days. 49 CFR 1131.2(d)(4)(A). The filing fee will be $10. 49 CFR 1002.2(d). The total grant of ETA will thus be for 120 days (the original 30-day grant, plus the automatic 90-day extension). Presently, the rules provide for automatic extensions for a total of 90 days.

Since the Act allows a maximum 90-day extension of ETA grants to motor carriers of property, the proposal to allow requests for 30 days plus an automatic 90-day extension will reduce the amount of time required for administrative processing of the extra 30-day extension request required under present rules. This will also relieve the applicant of the requirement of filing the request for extension (form OP–TA–19). These rules would apply to all motor and water carriers.

Automatic extension of the ETA occurs *only* when a corresponding TA is filed within 15 days of the filing of the ETA. Applicants will be required to include a statement in the TA Caption Summary indicating any corresponding ETA application and its "R" docket number, if known. 49 CFR 1131.2(b). Competing carriers, if they have not received notice of the ETA in another manner, will receive notice in the **Federal Register.** The field staff has averaged 20 days from the filing date until the TA caption is published. If an applicant waits the maximum permissible 15 days to file the TA application, potential protestants should receive notice of the corresponding ETA within approximately 35 days and may petition to have the ETA revoked at that time. 49 CFR 1131.6(f).

2. *Denial of a TA would automatically revoke any corresponding ETA.* The regulations now state that if a TA is denied, the Commission's decision to that effect will revoke the underlying ETA as of a "date certain." The proposed rules would automatically revoke the ETA 10 days after the denial of the TA. 49 CFR 1131.2(e)(4)(A). This will alleviate the confusion that has resulted when no revoking language was contained in the TA decision and will eliminate any possibility that an automatically extended ETA can continue for any substantial period after denial of the TA.

3. *Confirmation of telephonic or telegraphic filing of an ETA.* The proposal codifies the present informal practice of requiring an applicant to confirm an ETA application made by telephone or telegraph by filing the appropriate application and shipper statement within 10 working days after the filing by telephone or telegraph. 49 CFR 1131.2(e)(3).

4. *Identification of documents.* All documents should be identified on the outside of the envelopes in which they are filed as an ETA or TA application, ETA or TA protest, ETA or TA petition or reply, or an ETA or TA stay petition or reply. This will enable Commission staff to hasten the distribution of incoming mail.

5. *Appellate Procedures.* 49 CFR 1131.6. Employee Review Boards in Washington already have been delegated authority to handle appeals from decisions of the six Regional Motor Carrier Boards (RMCB). 49 CFR 1101.6(f)(6), Ex Parte No. MC–67 (Sub-No. 9), *Revised Temporary Authority Rules.* 45 FR 45525 (July 3, 1980). Appellate decisions by the Review Board will be administratively final. In exceptional circumstances, of course, where a party can demonstrate material error, new evidence, or substantially changed circumstances it can request discretionary administrative review. If discretionary administrative review is granted, it will be heard by a division of the Commission.

Appeals shall be filed within 20 days after the date of service of the decision. Replies may be filed within 15 days after the filing of the appeal. (This conforms to the rules in 49 CFR 1100.98). A person appealing a grant of ETA (but not TA) who has not previously been a party to the case may appeal a decision of the Review Board at any time because such person may not have received notice of the ETA grant. However, once such a person becomes a party to a decision of the Review Board, the appellate rules discussed above will apply and the decision will be administratively final.

Petitions and replies will continue to be filed at the office which made the decision which is being appealed. Appeals from decisions made by the RMCB will be filed in that region. That office will then forward the file and pleadings to Washington. If the decision being appealed was made by the Review Board, pleadings will be filed in Washington with the Office of the Secretary.

6. *Stay.* The filing of an appeal does not have the effect of automatically staying the decision to be appealed. The proposed rules provide procedures for the filing of petitions to stay decisions of a Regional Motor Carrier Board or Review Board. 49 CFR 1131.6(h). Pleadings filed under this provision must be filed with the Office of the Secretary in Washington.

7. For simplicity, the special rules of practice governing temporary authority and emergency temporary authority applications have been moved from 49 CFR 1100.225 to 49 CFR 1131.6, to eliminate the need for cross-reference between the two parts.

8. The provisions of 49 CFR Part 1131a governing water carriers would now be embraced in Part 1131. Several nonsubstantive changes are made to the regulations for purposes of clarity and brevity and to reflect the previous codification of the Revised Interstate Commerce Act in Subtitle IV of 49 U.S.C. Since Part 1131a was largely repetitive of Section 1131, and the separate section has been a source of confusion, the two sections have been combined in Part 1131.

9. *ETA for water carriers.* Formal regulations embracing emergency temporary authority for water carriers is proposed. There has never been a specific category of emergency temporary authority for water carriers. The Commission presently informally grants temporary authority to water

carriers in emergency situations in which time does not allow prior notice to the public in the **Federal Register.**

10. The provisions of 49 CFR 1131.5 concerning the filing of tariffs on less than statutory notice have been simplified. In addition, proposed Amendment No. 2 to Special Permission and Special Tariff Authority Order No. 78–1000–TA would delete any requirement that an applicant file certification that its rates are no lower than the lowest rates of competing carriers. This requirement is anti-competitive and unnecessary. The permission would also be modified to allow rate filings on one day's notice. Protestants may challenge any rate so-established as part of the TA/ETA appeal process. In such instances, a Review Board will make an initial decision on the lawfulness of the rate established.

11. Present § 1131.4(a)(3) is deleted. This section provides that since a grant of ETA or TA is not a permit or certificate, none of the related incidental rights is applicable. By elimination of this section, the incidental related rights will now apply to ETA and TA. For example, motor carrier of property will be able to serve commercial zones. ETA and TA may be used as a basis for performing a through, joint-line service with other carriers. The ETA or TA may be tacked with permanent authority if it falls under the circumstances set forth at § 1042.10(b). See Ex Parte No. MC–142, *Elimination of Gateway Restrictions and Circuitous Route Limitations* 45 FR 86741, (December 31, 1980).

12. Elimination of notice for ETAs covered in Ex Parte No. MC–67 (Sub-No. 6). Section 1131.1(d)(1) reflects the tentative decision of the Commission in Ex Parte No. MC–67 (Sub-No. 6), *Elimination of Notification Procedure in the Processing of Emergency Temporary Authorities Applications Under 49 U.S.C. 10928,* served concurrently with this decision and published elsewhere in this issue. The issue has not been finally determined and the Commission is seeking comments on the feasibility of having the applicant give notice. Any comments concerning elimination of notice should be directed to the proceeding in Ex Parte No. MC–67 (Sub-No. 6). Comments on that issue will *not* be entertained in this proceeding.

13. Duration of authorities. 49 U.S.C. 10928(a) limits grants of temporary authority to 180 days for motor carriers of passengers and water carriers. Any corresponding emergency temporary authority has always been included within these time limits. See present 49 CFR 1131.1(b)(1). Any grant of temporary authority to these carriers has been considered effective upon expiration of the ETA. See present general policy statement following 49 CFR 1131.2(e)(2). 49 U.S.C. 10928(b)(1) limits grants of temporary authority to 270 days for motor carriers of property. In addition, 49 U.S.C. 10928(c)(1) apparently authorizes a separate grant of emergency temporary authority to such carriers. Accordingly, the 270-day limitation on temporary authority for motor carriers of property should not include any corresponding ETA. Proposed 49 CFR 1101.3 and 49 CFR 1131.1(a) reflect this interpretation. Any grant of temporary authority to these carriers will automatically revoke the underlying ETA upon compliance with the provisions of the decision. 49 CFR 1131.2(d)(4)(A). Since the TA grant and ETA grant are distinct administrative actions taken on separate records and there is no statutory requirement that the ETA time period be included within the TA time period, the same rules will apply to water carriers and motor carriers of passengers, within existing statutory time limitations.

Summary

We propose to adopt the rules as set forth in the appendix which revise 49 CFR 1100, 1101, and 1131, delete Part 1131a and amend the decision in Special Permission and Special Tariff Authority Order No. 78–1000–TA.

This proposed action does not appear to affect significantly the quality of the human environment or the conservation of energy resources. Portions of our proposal of these rules are required to carry out the purpose, findings, and changes made by the Motor Carrier Act of 1980. Most of the rules proposed also constitute technical changes in our procedures for processing applications for TA and ETA. Most relate to rules of agency organization, procedure, and practice and are not subject to the notice and comment requirements of Section 553 of the Administrative Procedure Act, 5 U.S.C. 553. We are, however, soliciting comment on all portions except the elimination of notice on ETA's [see (9) above].

This proposed action is not expected to have a negative impact on small businesses. Comments on this matter are, however, invited.

These actions are taken under the authority of 49 U.S.C. 10321 and 10928, and 5 U.S.C. 553.

Decided: February 12, 1981.

By the Commission, Chairman Gaskins, Vice Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix A

PART 1100—GENERAL RULES OF PRACTICE

1. 49 CFR 1100.225 would be revised to read as follows:

§ 1100.225 Rules of practice governing the procedures of the Finance Board, the Operations Boards, the Special Permission Board, the Released Rates Board, the Tariff Rules Board, the Special Docket Board, and the Tariff Integrity Board (Rule 225).

(a) The proceedings of the Finance Board, the Operations Boards, the Special Permission Board, the Released Rates Board, the Tariff Rules Board, the Special Docket Board, and the Tariff Integrity Board shall be informal. No transcript of these proceedings will be made. Subpoenas will not be issued, and, except when applications, petitions, or statements are required to be attested, oaths with not be administered.

(b) A petition for reconsideration of a decision of the Operations Boards, the Special Permission Board, the Released Rates Board, the Tariff Rules Board, the Tariff Integrity Board, or the Special Docket Board may be filed by any person.

(c) A petition for reconsideration of a Finance Board decision may be filed only by a party to the proceeding.

(d) A petition for reconsideration under paragraphs (b) and (c) of this section and replies will be governed by the Commission's rules of practice, except as provided in paragraphs (e) and (f) of this section.

(e) The original and six copies of every pleading, document, or paper permitted or required to be filed under this section shall be furnished for the use of the Commission.

(f) *Service; Special Permission Application.* Every application requesting authority to change, cancel, or reissue a tariff matter under suspension or continued in effect as a result of suspension shall include a certificate showing simultaneous service upon all parties to the investigation and suspension proceeding. Service shall be made in the manner specified in Rule 20(a) of this part. Notification of the action taken by the Special Permission Board will be given to all parties of record.

2. 49 CFR Part 1101 would be revised to read as follows:

PART 1101—TEMPORARY OPERATING AUTHORITIES AND APPROVALS

Sec.
1101.1 Extension of temporary operating authority or approval.
1101.2 Definitions and interpretations.
1101.3 Additional grant for new need.
1101.4 Termination of temporary authority or approval.

Authority: 49 U.S.C. 10324, 92 Stat. 1347; 49 U.S.C. 10928, 92 Stat. 1414; 49 U.S.C. 11349, 92 Stat. 1439.

§ 1101.1 Extension of temporary operating authority or approval.

When an applicant has made a timely and sufficient application for a renewal of, or new, permanent operating authority or approval in accordance with applicable Commission rules, and the application or approval pertains to a need of a continuing nature:

(a) Any corresponding temporary authority (but not emergency temporary authority) granted under 49 U.S.C. 10928 is continued in force, beyond the expiration date specified in the authority, until a final determination is made of the related permanent application.

(b) Any temporary approval granted under 49 U.S.C. 11349 is continued in force, beyond the expiration date specified in such temporary approval, until the final determination of the related application for approval of a consolidation or merger of the properties of two or more motor or water carriers or of a purchase, lease, or contract to operate the properties of one or more of the carriers.

§ 1101.2 Definitions and interpretations.

A determination as to the applicability of § 1101.1 will be guided by the following definitions:

(a) *Timely application.* An application for a certificate of public convenience and necessity or a permit filed in accordance with the applicable laws, regulations, and instructions, not later than 60 days after issuance of temporary authority for a period of 180 days [270 days for a motor carrier of property] or not later than 60 days after issuance of the first of a series of consecutive temporary authorities aggregating 180 days [270 days for a motor carrier of property]. Only a series of grants of temporary authority which have been approved to meet a specific continuing need and which follow one after the other without interruption for a total of 180 days [270 days for a motor carrier of property] will be considered as a series of consecutive temporary authorities aggregating 180 days [270 days for a motor carrier of property]. An applicant may file a petition to waive the timely filing requirement with the Regional Office. Where an applicant has demonstrated good cause, the Regional Motor Carrier Board may extend the time in which a permanent application may be filed under these rules.

(b) *Sufficient application.* An application for permanent operating authority which is in the form, contains the information, and is accompanied by the documents and exhibits required by the applicable laws, regulations, and instructions.

(c) *Need of a continuing nature.* Any need which is the basis of an operation authorized by temporary authority or approval to be conducted for a period of less than an aggregate of 180 days in the case of a motor carrier of passengers or a water carrier, or less than 270 days in the case of a motor carrier of property, is presumed not to be of a continuing nature unless the Commission otherwise expressly determines.

(d) *Final determination of the related application.* For the purpose of this section—

(1) An application for permanent operating authority shall be considered to be "finally determined" (i) with respect to operations for which the application is denied, upon the expiration of the period allowed by the regulations of the Commission or by the decision (whichever is greater) within which appeals may be filed, or upon the denial of an appeal if filed, and (ii) with respect to operations for which the authority is granted, when the certificate or permit becomes effective.

(2) An application for approval of a consolidation or merger of the properties of two or more motor or water carriers, or of a purchase of the properties of one or more such carriers shall be considered to be "finally determined" (i) in the case of denial of such an application, upon the expiration of the period allowed by the regulations of the Commission or by the decision (whichever is greater) within which appeals may be filed, or upon the denial of an appeal if filed and (ii) in the case of approval of such an application, when the certificate or permit to be transferred in connection with such application has been reissued in the name of the transferee and has become effective.

(3) An application for approval of a lease or contract to operate the properties of one or more motor or water carriers shall be considered to be "finally determined," (i) in the case of denial of such an application, upon the expiration of the period allowed by the regulations of the Commission or by the decision (whichever is greater) within which an appeal may be filed, or upon the denial of an appeal if filed, and (ii) in the case of approval of such an application, when the decision approving such application becomes effective.

§ 1101.3 Additional grant for new need.

As used in 49 U.S.C. 10928(a) the term "not more than 180 days" means the total number of days of temporary authority which may be granted to a motor carrier of passengers or a water carrier under the provisions of that section to meet a continuing need for a particular service. As used in 49 U.S.C. 10928(b)(1) the term "not more than 270 days" means the total number of days of temporary authority which may be granted to a motor carrier of property under the provisions of that section to meet a continuing need for a particular service. If the need for a particluar service ceases and the temporary authority covering such need expires or is revoked, and a new or separate need arises subsequent to such expiration or revocation, additional temporary authority may be granted to the same carrier for the service notwithstanding the prior grant or grants. However, an application filed by a motor carrier of passengers or by a water carrier after the expiration or revocation of temporary authority for an aggregate of 180 days and an application filed by a motor carrier of property after the expiration or revocation of temporary authority for an aggregate of 270 days will be denied unless the facts clearly show that the application is in reality based on a new need and not on a continuation of the need on which the prior grant of authority was based. Any corresponding TA may be based on the same need as the underlying ETA.

§ 1101.4 Termination of temporary authority or approval.

Nothing in this part shall be construed as preventing the Commission from terminating at any time, in accordance with law, any temporary or emergency temporary authority or approval, or any extension of these.

3. The title of 49 CFR Part 1131 would be revised to read:

PART 1131—TEMPORARY AUTHORITY (TA) AND EMERGENCY TEMPORARY AUTHORITY (ETA) APPLICATIONS UNDER 49 U.S.C. 10928

4. 49 CFR 1131.1, 1131.2, 1131.3, 1131.4, 1131.5, 1131.6, and 1131.7 would be revised to read as follows:

§ 1131.1 Controlling legislation and definitions.

(a) *Controlling legislation.* 49 U.S.C. 10928 (which the regulations in this part are designed to implement) provides that the Interstate Commerce Commission may grant a motor carrier or water carrier TA to provide transportation to a place or in an area having no carrier capable of meeting the immediate needs of the place or area. Such grants of authority are limited by statute to not more than 180 days in the case of a motor carrier of passengers or a water carrier, and not more than 270 days in the case of a motor carrier of property. ETA may be granted to a motor carrier of property for a period of not more than 30 days, and the Commission may extend such authority for a period of not more than 90 days, for a total of 120 days. ETA may be granted a motor carrier of passengers or a water carrier for a period of not more than 30 days, and the Commission may extend such authority for a period of not more than 150 days, for a total of 180 days. A grant of ETA is not considered as reducing the statutory maximum of 270 days of TA in the case of a motor carrier of property, or 180 days of TA in the case of a motor carrier of passengers or a water carrier, which may be granted to such a carrier. Extensions of TA beyond these statutory limits are governed by the special rules contained in Part 1101 of this chapter. A grant of TA shall create no presumption that corresponding permanent authority will be granted.

(b) *Definitions.* As used in this part, the following words and terms are construed as follows:

(1) *"Temporary authority".* Limited term operating authority issued pursuant to 49 U.S.C. 10928 to authorize transportation service for which there is an immediate need which cannot be met by existing carrier service.

(2) *"Emergency temporary authority."* Limited term operating authority issued pursuant to 49 U.S.C. 10928 to authorize transportation service for which there is an immediate need for service due to emergencies which cannot be met by existing carrier service, in which time or circumstances do not reasonably permit the filing and processing of an application for TA.

(3) *"Carrier."* Includes a motor common carrier, motor contract carrier, water common carrier, or water contract carrier, as defined in subsection (4) below.

(4) *"Motor common carrier", "motor contract carrier", "water common carrier", "water contract carrier," and "person".* Same as defined in 49 U.S.C. 10102.

(5) *"Not more than 180 days" or "not more than 270 days."* Same as defined in 49 CFR 1101.3.

§ 1131.2 Filing of applications.

(a) *General.* All applications for TA and and ETA are to be filed at the Regional Office which has jurisdiction over the area in which applicant's headquarters are located. The Regional Office will review each application filed, after consultation with the affected field offices as appropriate, and then transmit the applications, with recommendations as to their disposition, to the Regional Motor Carrier Board. The Regional Offices will maintain records of authorized carriers with headquarters in their region and their operating authorities, and their staff members, as well as those of the field offices within their jurisdiction, will be available for: consultation; giving assistance in obtaining carrier service; providing guidance in the preparation of TA or ETA applications and related supporting material, and making rate, insurance, and other required filings. Regional and field Offices will furnish copies of necessary forms upon request.

(b) *How and where filed.* A separate application for each TA or ETA sought shall be filed on Form OP–MCB–95 (§ 1003.1 of this chapter) by motor carriers and on Form OP–WC–25 (§ 1003.2 of this chapter) by water carriers. The envelope containing the application shall be clearly marked "ETA APPLICATION" or "TA APPLICATION." The signed original and two copies of each application and all supporting documents shall be filed with the Regional Office which has jurisdiction over the point at which applicant is domiciled, or such other location as the Commission may designate in special circumstances. An applicant seeking TA shall also tender an original and two copies of a caption summary. Caption summaries shall be double spaced and shall follow the format used for permanent authority notices, as described in *Revision of Application Forms,* 125; M.C.C. 790 (1976). Summaries shall incorporate the style changes noticed in the **Federal Register** issue of January 18, 1978 (43 FR 2632). Where an applicant has also applied or will apply for a corresponding ETA, the application shall include the statement, "An underlying ETA seeks —— days authority" in its application. Applicant should also include the "R" docket number of the ETA, if known. Applicants may consult the appropriate Regional Office for assistance in preparing a caption summary.

(c) *Filing Fees.* A filing fee of $60 must accompany each temporary authority application. There is no initial filing fee for ETA applications. If applicant seeks any extensions of the ETA, a $10 fee is required. See Section 1131.2(e)(4)(A) and 49 C.F.R. 1002.2(d).

(d) *Supporting statements.* Each application shall be accompanied by a supporting statement(s) designed to establish an immediate need for service which cannot be met by exisitng carriers. Each statement must contain a certification of its accuracy and must be signed by the person (or an authorized representative) having an immediate need for service. Any supporting statement should contain the following information:

(1) Description of the specific commodity or commodities to be transported (where the transportation of property is involved).

(2) Points or areas to, from, or between which the transportation will be provided.

(3) Volume of traffic involved, frequency of movement, and how transported.

(4) How soon the service must be provided.

(5) How long the need for service likely will continue, and whether the persons supporting the TA will support a permanent authority application.

(6) Recital of the consequences if service is not made available.

(7) The circumstances which created an immediate need for the requested service.

(8) Whether efforts have been made to obtain the service from existing carriers, and the dates and results of these efforts.

(9) Names and addresses of existing carriers, a list of those who have either failed or refused to provide the service, and the reasons given for any failure or refusal.

(10) Name and address of the carrier who will provide services and is filing application for TA.

(11) If the person supporting the application has supported any recent application for permanent, temporary, or emergency temporary authority covering all or any part of the desired service within the year preceding the date of its statement, give the carrier's name, address, and docket number, if known, and state whether the application was granted or denied and the date of the action, if known.

(e) Special procedures for filing ETA applications.

(1) ETA shall be applied for only where emergency conditions exist which do not permit sufficient time to afford the notice specified in § 1131.3(a). Where the application demonstrates the existence of these emergency

conditions, action will normally be taken without the Commission's notifying interested parties other than by making the application available to the public at the Commission office at which it is filed.

(2) In the cases where the urgency of the situation warrant, the supporting statement of those having the immediate need for carrier service may be furnished by telegram. However the telegram shall contain substantially the factual information which is more fully described in paragraph (c) of this section. The telegram shall be sent to the Regional Office that is handling the application.

(3) The filing of ETA applications by telegram or telephone shall be acceptable in exigent circumstances. Confirmation shall then be made by filing form OP–MCB–95 or OP–WC–25 with the supporting statement, within 10 working days from the filing by telephone or telegram.

(4) Where the emergency is found to continue beyond the period of the initial 30-day grant, the ETA may be extended until disposition is made of the longer TA application. In no event may a 30-day grant of ETA of a motor common of property be extended for a period of more than 90 additional days. Applications seeking extension of ETA may be filed in two ways:

(i) *If corresponding TA application is filed within 15 days of the date of filing the initial ETA application.* If an applicant shall, within 15 days of the date of filing an application for ETA at the Regional Office, file with the Regional Office a corresponding application seeking TA for a period of 180 or more days, applicant may state on the ETA application form: "Applicant certifies that, within 15 days of the date of filing this application, a corresponding application shall be filed seeking TA for a period of at least 180 days, and requests that an automatic 90-day extension of any ETA granted be issued." An application for ETA which contains this certification shall be accompanied by the fee applicable for the extension which is $10. See 49 CFR 1002.2(d). The filing of the corresponding TA application, within the 15-day period, will automatically serve to extend the ETA for 90 days. The Commission reserves the right to revoke any ETA (or extension). Should corresponding TA be granted, it will be effective upon compliance with the requirements of § 1131.3(c) of this chapter, and any corresponding ETA will automatically stand revoked at that time. Should corresponding TA be denied any carrier, either initially or on appeal, the decision will automatically have the effect of revoking any corresponding ETA 10 days after service of such decision. Any outstanding ETA which would expire by its own terms prior to such time is not affected.

(ii) *If corresponding TA application is not filed within 15 days of the date of filing the initial ETA application.* Any request for extension of ETA, not conforming to the rules in paragraph (a) of this section, shall be made by filing an original and two copies of form OP–TA–19 and shall be accompanied by the $10 fee. See 49 CFR 1002.2(d). These requests shall be filed in the appropriate Regional Office prior to the second day before the expiration date of the ETA sought to be extended. The Regional Motor Carrier Board shall require that any request for continuation of service authorized by the issuance of ETA not filed prior to the second day be filed on form OP–MCB–95 or OP–WC–25 as a separate application. Each extension may be granted for a period of up to 30 days. Extension of ETA are discretionary with the Commission, and if multiple requests for extensions are filed, the Commission may require applicant to file a TA application.

§ 1131.3 Processing of applications.

(a) *Notice to interested persons*—(1) *Service.* Notice of the filing of TA applications shall be given by the publication of a summary of the authority sought in the **Federal Register**. Summaries shall be prepared by applicant in accordance with § 1131.2(b). These will be reviewed by the Commission's Regional Office and forwarded to the Office of the Secretary, Washington, DC. If an incorrect caption is filed, it shall be returned with the application to the applicant for correction. No summary will be published or need be submitted in the case of ETA applications.

(2) *Filing of protest.* Any person who can and will provide all or any part of the proposed service may file a protest against the application. Protests shall be specific as to the service which protestant can and will offer and shall consist of a signed original and two copies. They shall be filed with Regional Office named in the **Federal Register** publication within 15 calendar days after publication. The envelope containing the protest shall be clearly marked "ETA PROTEST" or "TA PROTEST." One copy of a protest shall be served on the applicant (or its authorized representative, if any) by U.S. mail or in person.

(b) *Publication of rates and charges.* A carrier may not lawfully perform transportation under a grant of TA unless and until compliance has been made with the rate filing requirements of 49 U.S.C. 10762. Rates may be filed on less than statutory notice under the provisions of § 1131.5 of this chapter.

(c) Revocation for noncompliance, and reinstatement and extension of time for making compliance. (1) Authority is approved subject to compliance within 30 days, or within such additional time as the Commission may approve, with the applicable provisions of the statute and the commission's regulations governing the filing of rate and contract publications [see subsection (b)]. In addition, TA of motor carriers is approved subject to the filing of acceptable insurance for the protection of the public and designation of agents for service of process [See § 1131.8 of this chapter].

(2) If compliance is not made within the 30-day period, or within the time allowed in any extension, the TA decision will be void. When this occurs, applicant may make written request to the Regional Office of its domicile for reinstatement of the granting decision, provided (i) that the request is made within 50 days from the date of service of the decision, (ii) that good cause can be shown as to why compliance was not made within the time allowed, and (iii) that the request for reinstatement contains positive assurance that applicant will comply immediately with all applicable requirements, if the decision is reinstated.

§ 1131.4 Determination of applications

(a) *General.* (1) Initial determination of TA or ETA applications will generally be made by a Regional Motor Carrier Board. For purposes of administration, distinctions in the applicable grounds of approval and rate filings will be maintained as between ETA's and TA's. Successive grants are limited by the provisions of § 1101.3 and § 1131.1(a) of this Chapter.

(2) While a grant of TA or ETA is neither a permit nor a certificate, it nevertheless enables the applicant to provide service either as a common or a contract carrier. Consequently, a contract carrier applicant for TA or ETA must show that the operation proposed is that of a contract carrier as defined in 49 U.S.C. 10102 (13). No "Dual operation" finding is necessary.

(3) To the extent not otherwise exempt by statute [49 U.S.C. 10526 (a)(10)], for administrative convenience, TA or ETA authority to transport property will be considered to authorize the return transportation of shipper-owned trailers and of empty crates, barrels, bottles, hangers, pallets, bracing, dunnage, and other similar containers and shipping devices used in

the outbound transportation covered by the TA or ETA.

(b) *Standards for determination.* The following standards shall be used in the absence of special or unusual circumstances, in the initial or appellate determination under 49 U.S.C. 10928 of applications by motor or water carriers for TA or ETA.

(1) *General.* Grants of TA or ETA shall be made upon the establishment of an immediate need for the transportation of passengers, or of particular commodities or classes of commodities, from origins to destinations not having carrier service capable of meeting the need. Requests involving service to or from entire States, counties, or other defined areas warrant approval when supported by evidence that there is a need for service to or from a representative number of points in each such State, county, or area, that there is a reasonable certainty that the service will be used, and that carrier service capable of meeting the need is not available. Lack of opposition to the application will be considered as indicia of unavailable service.

(2) *Immediate need.* A grant of TA or ETA will be made where it is established that there is or soon will be an immediate transportation need which reasonably cannot be met by existing carrier service. A showing of immediate need may involve a new or relocated plant, different method of distribution, new or unusual commodities, an origin or destination not presently served by carriers, a discontinuance of existing service, failure of existing carriers to provide service, or comparable situations which require new carrier service before an application for permanent authority can be filed and processed.

(3) *Failure to provide equipment.* TA or ETA may be granted where existing authorized carriers are unable or refuse to furnish equipment necessary to move passengers or freight to meet an immediate transportation need.

(4) *General bases for disapproval.* Applications for TA or ETA may be denied for the following reasons:

(i) Failure to meet statutory standards.

(ii) Unfitness of the applicant.

(c) *Determination of fitness issues in motor carrier applications.* The following standards shall be used in the initial or appellate determination of fitness issues in applications by motors carriers for TA or ETA under 49 U.S.C. 10928.

(1) *General.* (i) Unless there is a particularly urgent transportation need, an application will normally be denied where the applicant has been found unfit or in substantial noncompliance with the safety regulations of the Department of Transportation, unless the carrier has reestablished compliance or the application contains sufficient evidence to establish that the carrier has taken significant steps to remedy its deficiencies and is now in substantial compliance.

(ii) Where a fitness proceeding has been instituted against a carrier applicant, or where the Office of Consumer Protection has been ordered to intervene in a pending proceeding because the applicant's fitness is in issue, and no final decision has been entered, TA or ETA shall normally not be denied, unless a fitness flag has been raised against applicant in accordance with the Commission's Fitness Flagging Procedures, 49 CFR 1067. Notwithstanding the existence of the fitness flag, an applicant may attempt to show that there is no nexus between the issues raised in the flagged proceeding and in the application for TA or ETA or that other good cause exists for granting authority.

(iii) Alleged violations of law or regulations or a pending fitness investigation where no formal proceeding has been instituted shall not be used as grounds for denial unless the decision maker has evidence that the carrier applicant has a history of willful or flagrant violation of the law or regulations. If authority is denied for lack of fitness on this basis, the decision shall state the basis for denial. The applicant shall be afforded an opportunity to appeal the denial.

(iv) Any denial under these guidelines shall be without prejudice to the applicant's filing an appeal, and submitting evidence concerning its fitness or safety compliance, as appropriate.

(2) *No presumption of fitness.* The granting of any authority shall not give rise to any presumption regarding the applicant's fitness.

(3) *Revocation for unfitness.* Any grant of authority may be later revoked by the Commission should it determine that the applicant is unfit in accordance with these guidelines.

(4) Urgency considerations. Allegations of unfitness in these proceedings shall be considered in light of the urgency of the shipper's needs.

§ 1131.5 Rates, fares, charges, and special permission applications.

(a) *Rates requirements of motor carriers—Publish on less than 30 days notice.* Rates, fares, charges, and related provisions may be established by motor carriers under the provisions of Special Permission and Special Tariff Authority Order No. 78–1000–TA upon not less than one day's notice to apply on shipments transported under TA.

(b) *Special permission or special tariff authority applications.* If publication is to be made on less than 30 days' notice by the carrier filing the TA application and the carrier does not wish to use the general special permission or special tariff authorities referred to in this section, the TA application must be accompanied by a special permission or special tariff authority application (three copies, only the original of which must be executed and bear the signature of the carrier or its agent officer, specifying title), setting forth the proposed rates, fares, charges, and other tariff, or schedule provisions clearly and completely. An accompanying exhibit may be used if identified by letter, such as exhibit A, and so referred to in the application. If the proposed provisions consist of rates, fares, and/or charges, all points of origin and destination must be indicated. If authority is sought to establish a rule, the exact wording of the proposed rule must be shown. If relief from existing regulations is sought, the exact form of publication must be shown.

(c) *Emergency Temporary Authority.* (1) Each application for ETA shall be accompanied by a statement of the rates, fares, charges, and other tariff or schedule provisions to be filed under Special Permission M–60160 or M–60161, §§ 1306.100, 1306.101, 1307.100 and 1307.101 of this chapter, for use in the event the authority is granted. ETA will be revoked for failure to file a proper tariff or schedule.

(2) In every case the carrier shall state in its application whether there is under suspension any rates, fares, or charges published for its account, or whether an application for special permission authority to file its rates, fares, or charges on less than 30 days' notice has been granted or denied, covering the same traffic from and to the same points in connection with another temporary or permanent authority application. If the applicant has rates, fares, or charges, or other tariff matters under suspension, or has received, or been denied special permission to file on less than 30 days' notice any such rates, fares, or charges not yet effective, covering the same traffic, the Regional Motor Carrier Board will not recommend approval of the request nor will a grant be made of the ETA.

(3) If applicant has rates, fares, or charges under suspension covering the same traffic, it should file a special permission application as set forth in paragraph (b) of this section, stating that a copy was served upon protestant(s) and requesting less-than-statutory

notice authority to cancel the suspended matter and to file rates, fares, or charges or, in the alternative, state that the suspended rates, fares, or charges will be defended and request less-than-statutory notice authority to file rates, fares, or charges to apply during the suspension period and to expire at the end of the suspension period.

§ 1131.6 Petitions and special procedures.

(a) The proceedings of the Regional Motor Carrier Boards shall be informal. No transcript of these proceedings will be made. Subpoenas will not be issued, and, except when applications, petitions, or statements are required to be attested, oaths will not be administrated.

(b) An appeal and replies filed under this section will be governed by the Commission's rules of practice (49 CFR 1100), except as otherwise provided in this section.

(c) The original and two copies of every pleading, document, or paper permitted or required to be filed under this section shall be furnished for the use of the Commission. Appeals and replies shall not exceed 30 pages in length, including any index of subject matter, argument, and appendices or other attachments. Pleadings must be served on all parties of record.

(d) Appeals from decisions acting on TA and ETA applications may be filed by any person. All appeals from decisions of a Regional Motor Carrier Board shall be filed with the Regional Office in which the application was filed. All other appeals shall be filed with the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. The envelope containing the pleading shall be clearly marked "ETA PETITION" or "TA PETITION."

(e) Replies may be filed by any person to these appeals. If the facts stated in any appeal disclose a need for accelerated action, this action, in the discretion of the Commission, may be taken before expiration of the time allowed for reply. Replies received after accelerated action on appeals will be treated as appeals of the accelerated action and given corresponding accelerated treatment. All replies to appeals from decisions of a Regional Motor Carrier Board shall be filed with the Regional Office in which the application was filed. All other replies shall be filed with the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. The envelope containing the reply shall be clearly marked "ETA REPLY TO PETITION" or "TA REPLY TO PETITION."

(f) *Appeals from Regional Motor Carrier Board Decisions.* Except as provided below for matters involving ETA, an appeal of a decision of the Regional Motor Carrier Boards entered under 49 U.S.C. 10928 shall be filed within 20 days after the date of service of the decision. Within 15 days after the filing of the appeal, any person may file and serve a reply. The Regional Motor Carrier Board, after reviewing the pleadings prior to forwarding them to Washington, may modify its initial decision. Any further appeal would be decided by a Review Board. Appeals generally will be decided by a Review Board pursuant to the delegation of authority contained in 49 CFR 1011.6(f)(6). An applicant seeking reconsideration of a decision concerning ETA must file an appeal within 20 days after it is notified of the decision on the application. Any other interested person seeking reconsideration of a decision granting ETA may file an appeal at any time during the life of the authority. Replies must be filed within 15 days after the filing of the appeal. The Review Board handling the appeal may also consider and make an *initial decision* on the lawfulness of any rate established pursuant to Special Permission and Special Tariff Authority Order No. 78-1000-TA.

(g) *Appeals from Review Board appellate decisions entered under 49 U.S.C. 10928.* (1) A person shall not be permitted as a matter of right to file an administrative appeal from an appellate decision entered under 49 U.S.C. 10928 by a Review Board. The appellate decision of the Review Board shall be administratively final. This does not apply to a person seeking to appeal a decision granting ETA until such a person has been a party to a decision by a Review Board. In these instances, the Review Board shall reopen the proceeding to consider the pleading of that person.

(2) Discretionary review—petitions for administrative review. Any party may file a petition for discretionary administrative review of an appellate action made by a Review Board. The petition will be granted in the sole discretion of the Commission. Petitions must be filed within 20 days after the date of service of the Review Board decision. Replies must be filed within 15 days of the date the appeal is filed. The petition should state in detail the respect in which the proceeding involves material error, new evidence, or substantially changed circumstances. These appeals will be determined by a division of the Commission.

(h)(1) *Final action.* The filing of an appeal does not have the effect of automatically staying the decision being appealed. If the decision grants authority, applicant may conduct the operations authorized upon compliance with its tariffs, insurance, and other requirements for the duration of the TA, or until otherwise ordered. If the decision denies authority, applicant may not commence such operations. If the decision revokes authority, applicant must cease such operations. See also § 1131.2(d)(4)(A) of the chapter.

(2) *Stays.* The Commission may stay the effect of any decision on its own motion or on petition. A petition to stay may be filed in advance of an appeal and shall be filed within 10 days of service of the decision. No reply need be filed. However, if a party elects to file a reply, it must reach the Commission no later than 16 days after service of the decision. All petitions to stay decisions of a Regional Motor Carrier Board or a Review Board (and any replies thereto) shall be filed with the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423 with a copy to the Regional Office at which the application was filed. The envelope containing the pleading shall be clearly marked "ETA STAY PETITION," "TA STAY PETITION," "ETA REPLY TO STAY PETITION," or "TA REPLY TO STAY PETITION."

§ 1131.7 State registration of temporary authorities—motor carriers.

Notwithstanding the provisions of 49 CFR 1023.11, a motor carrier shall not be required to file with s State commission a TA or ETA having a duration of 120 consecutive days or less if such carrier has (a) registered its other authority granted by the Interstate Commerce Commission authorizing operation in or through the involved State [a carrier possessing no other such authority may qualify for this exception upon compliance only with condition (b) of this section] and identified its vehicles or driveaway operation under the provisions of those standards set forth at 49 CFR 1023.31-1023.42, both inclusive; and (b) furnished to the State commission a telegram or other written communication from the motor carrier describing the TA or ETA and stating that operations shall be in full accord with the requirements of those standards set forth at 49 CFR 1023.1 et seq.

5. A new section 49 CFR § 1131.8 would be added immediately after 49 CFR § 1131.7 as revised above:

§ 1131.8 Insurance and service of process—motor carriers.

(a) Where the applicant is an authorized motor carrier, a statement must accompany the application indicating whether evidence of effective insurance is on file with the Commission and whether agents for service of process have been designated for each State in which operations are conducted or proposed. If applicant is not an authorized motor carrier, it should furnish a statement containing the name of its insurance company, its policy number, the effective and expiration dates of the policy, the limits of the policy and a copy of the Commission's Form BOC 3 (§ 1003.1 of this chapter) designating an agent for service of process in each State where operations are proposed to be conducted.

(b) On motor carrier ETA where time does not permit the submission of the required written statement by applicant, a telegraphic statement may be accepted.

PART 1131a—[REMOVED]

6. 49 CFR Part 1131a would be removed in its entirety.

Appendix B

Issue the following amended Special Permission decision:

INTERSTATE COMMERCE COMMISSION

AMENDMENT NO. 2 TO SPECIAL PERMISSION AND SPECIAL TARIFF AUTHORITY ORDER NO. 78-1000-TA

ESTABLISHMENT OF RATES, FARES, OR CHARGES ON SHORT NOTICE TO COVER SHIPMENTS AND PASSENGERS TRANSPORTED UNDER TEMPORARY OPERATING AUTHORITY

When temporary operating authority (TA) is granted to a motor carrier under 49 U.S.C. 10928, there is an immediate need for service that cannot be met by existing carriers. Therefore, the rates, fares, or charges and related provisions should be filed and posted to become effective without undue delay.

Rates generally are required to be filed and posted upon not less than 30 days' notice, which delays the commencement of the operations. The only means by which a carrier may establish such rates on less than 30 days' notice is special permission or special tariff authority. Numerous special permission and special tariff authority applications are filed each week, and those that comply with the requirements of 49 CFR 1131.5 and are otherwise justified are usually granted. Such an application must be prepared and filed by the carrier and be processed by the Commission. This is burdensome and expensive to the carrier and also delays the commencement of the operations because the rates may not be filed or posted until after the special permission or special tariff authority is obtained.

It would therefore be in the public interest to permit motor carriers to file and post these rates upon less than 30 days' notice without the necessity of filing in each instance an application for special permission or special tariff authority.

This decision does not appear to affect significantly the quality of the human environment or the conservation of energy resources.

It is ordered:

(1) Motor carriers authorized to perform transportation service under temporary operating authority under 49 U.S.C. 10928 may file and post on not less than one day's notice, rates to apply on the transportation services to be performed under a particular temporary operating authority. If the temporary authority decision indicates that the authority may not become effective sooner than a specified date, the rates may not become effective prior to that date. The publication must be in the possession of this Commission in Washington, D.C. at least one day before the effective date shown thereon.

(2) The authority granted here may be used only for the purpose of establishing *INITIAL RATES* on less than 30 days' notice to cover services to be performed under a particular temporary operating authority [see paragraph (3) for exception]. In all other respects, the publication filed shall comply with all effective governing regulations.

(3) The authority granted here may not be used to establish rates applicable on transportation subject to a subsidy.

(4) The temporary operating authority shall be shown in the publication exactly as granted by the Commission and the rates must be in strict conformity with the authority granted. They may not be published to apply to less than, nor more than, the authority granted.

(5) Only contract carriers authorized to file schedules of minimum rates and charges may file such schedules. Schedules of all other contract carriers shall name actual rates and charges. The title page of each schedule or each supplement to an existing schedule shall indicate the kind of rates and charges (minimum or actual) contained therein.

(6) The docket number, including the sub-number, if any, shall be shown in connection with the rates established.

(7)(a) All tariff and schedule matter filed shall show on the title page of the tariff, schedule or supplement, on the page, or directly with the rates or provisions, as appropriate, the following notation:

"Expires with the same date with which the temporary operating authority in Docket No. (here insert appropriate docket No.) expires."

(7)(b) Carriers not filing upon short notice under this authority are authorized to depart from the appropriate regulations to show the expiration notation set forth in Paragraph (8)(a) in lieu of an explicit expiration date. These publications need not refer to this authority.

(7)(c) Publications filed upon short notice should show the following notation in connection with such matter:

Issued upon one day's notice; ICC Permission (Tariff Authority) No. 78-1000-TA.

(8) If emergency temporary operating authority (ETA) rates applicable on the same traffic are not indicated to expire before the effective date of the rates proposed to be established thereunder, the "TA" publication filed, concurrently with its effective date shall cancel the "ETA" publication.

(9) The authority granted extends only to the filing of the temporary operating authority rates on less than 30 days' notice, and it shall not be construed as granting approval (either direct or implied) of the contents of the publication.

(10) This permission shall become effective _____ and shall expire on _____.

(11) Except as otherwise authorized, this permission does not modify any outstanding formal orders of the Commission, nor waive any of the requirements of its rules relative to the construction, filing, and posting of tariff or schedule publications.

[FR Doc. 81-6170 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1131

[Ex Parte No. MC-67 (Sub-6)]

Elimination of Notification Procedure in the Processing of Emergency Temporary Authority Applications Under 49 U.S.C. 10928

AGENCY: Interstate Commerce Commission.

ACTION: Proposed Rules.

SUMMARY: The Commission has tentatively decided to eliminate its informal practice of having its field staff notify competing carriers when a motor carrier files an application for emergency temporary authority (ETA). The practice is not required by the statute and is encumbering the decisional process on applications for short-term authority. The rule proposed here would place the burden of notifying competing carriers upon the applicant. The Commission will continue its present practice of notifying existing carriers until comments are received on this issue and a final decision is made. Final rules clarifying certain procedural and decisional standards applicable to appeals from decisions on ETA applications were also adopted and appear elsewhere in this issue.

DATES: Comments should be filed by March 26, 1981.

ADDRESS: An original and 15 copies should be sent to: Ex Parte MC 67 (Sub-6), Room 5416, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423. Copies of the Commission's decision may be obtained by written request to: Secretary, Interstate Commerce Commission, Washington, DC 20423, or by calling the toll-free number (800) 424-9312.

FOR FURTHER INFORMATION CONTACT:

Ombudsman's Office, (202) 275-7440
Jane Alspaugh, (202) 275-873 or
Donald J. Shaw, Jr., (202) 275-7292

SUPPLEMENTARY INFORMATION: By a notice of proposed rules at 45 FR 6634 (January 29, 1980), we proposed to eliminate the Commission's informal practice of having the field staff notify competing carriers by telephone of the filing of an application for emergency temporary authority (ETA) conflicting with their authority. A summary of our tentative decision, ——— M.C.C. ——— follows.

Section 10928 of the statute exempts ETA and TA applications from the procedural requirements of the Interstate Commerce Act and the Administrative Procedure Act, including those relating to notice and hearing. The primary statutory criterion for the disposition of these applications is the need for service. Harm to existing carriers is only an incidental consideration and cannot be determinative.

Having concluded that there is no legal requirement that notice be afforded to competing carriers, we then considered whether, nevertheless, it would be helpful to continue the present practice. We tentatively concluded that the present blanket telephone notice program involves a substantial expenditure of Commission resources which could be better spent in the faster handling of these emergency applications, thus providing more responsive service to the shipping public. It appears that other avenues are available for the interests of existing carriers to be protected. The files of the Commission are open for public inspection. Existing competing carriers are in a position quickly to learn either of the pendency of an ETA application or of its being granted. Concurrently with this decision, the field staff has been instructed to indicate the existence of a corresponding ETA application in the **Federal Register** caption for the TA. Since most ETA applications are followed by a TA application, competing carriers will receive notice in most instances in the **Federal Register.**

However, we believe that the comments received in this proceeding suggesting that the burden of notification be made the applicant's responsibility warrant further consideration. Accordingly, the Commission will receive comments on the rule here proposed which would require an applicant for ETA to give written notice to known competitors of its filing of an application for ETA.

We do, however, harbor certain reservations about the feasibility of this system, and we specifically request comments on the practicalities of the suggestion.

(1) Who should applicants be required to notify? It would seem that applicants are not always in a position to know all of the carriers which are already authorized to provide the service. The following have been suggested: (a) all known carriers; (b) all carriers named by the shipper in its certificate of support as not being able to provide service; (c) all carriers which have served the shipper in the year immediately preceding the application; (d) all carriers actually participating in the traffic as well as those actively soliciting the shipper. Is it too time consuming and burdensome for the shippers to determine which carriers would need to be served in (c) and (d) above? Is the applicant-notify system inequitable since, just as in the Commission-notify system there will perhaps be carriers which do not receive notice? Should a carrier be able to challenge a grant on the grounds that it did not receive notice?

(2) How should the applicant be required to give notice? The proposed rules call for written notice to competitors. We would like comments on whether this is too burdensome and whether, because of the time constraints involved, mail service would be too slow. Could a telephone or telegraph notice substitute equally as well? Could applicant be given the option of either providing notice by mail, telegraph, or telephone? How could the Commission verify the notice in the event there was a dispute? One comment suggests that we make applicant publish notice of intent to file for ETA in a newspaper of general circulation serving the area where shipper's facilities are located. This would provide an objective method for giving notice which could be easily verified in case of dispute. However, there appear to be drawbacks in that not all existing carriers would necessarily have offices in the particular locality. We would like comments on this or similar alternatives describing the potential advantages and problems which would be involved.

(3) When should the ETA application be ripe for decision? If notice is to be required, it would seem that it would serve no useful purpose unless existing carriers are accorded sufficient time to register protests. In this connection, we note that Section 23 of the Motor Carrier Act of 1980 (Public Law 96-296, 94 Stat. 793 (1980)) amended 49 U.S.C. 10928 to require that decisions on ETA applications for motor property carriers be decided in 15 days. The comments provided the following suggestions: The Commission could (a) not require notice on applications seeking less than 30 day authority; (b) allow 6 to 10 days from the time of service of notice or filing of the application before reaching a decision; (c) make immediate decisions in cases in which a dire emergency is involved and treat any protests received after the grant as petitions for reconsideration. Are there any other alternatives?

If delay is inherent in this proposal, there could be substantial harm to shippers, as we have already discussed in detail in the decision. We solicit shipper views on this matter. These should include reference to our recent decision in Ex Parte No. 64 (Sub-No. 2), *Special Temporary Authority Procedures*, 45 FR 40680 (June 16, 1980), in which we adopted General Temporary Order No. 22. The order allows a limited-term grant without notice to existing carriers in certain specific situations. Reference could also be made to expanding these situations in Ex Parte No. 64 (Sub-No. 2A), same title, 45 FR 37912 (June 5, 1980). Would the procedures adopted and proposed in these proceedings cover the most pressing needs of shippers? Are there other problems which would result from delay to receive protests that are not susceptible of resolution by expanding the General Temporary Order?

(4) What penalty, if any, should there be if applicant fails to provide notice? Should a penalty of immediate revocation apply if the applicant does not notify all carriers named by the shipper or if the shipper fails to name all existing carriers?

(5) Would the notice problem be largely abated if ETA grants are limited to service only for the supporting shippers?

(6) Should different standards apply to passenger and water carriers? [1]

We were informed in the comments that the California Public Utilities Commission has a similar procedure to notify competitors and that the system is quite successful. We would appreciate information on the administration of this program with as much detail as possible.

The comments should include any other possible alternatives that the Commission should consider.

Our present practice of the Commission's giving notice to existing carriers will be continued until a final decision on this matter is reached after we have considered the additional comments solicited here.

[1] The Commission's regulations do not describe a specific category of emergency temporary authority for water carriers.

The following regulation is proposed to revise § 1131.2(d)(1) of Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations as follows:

§ 1131.2 [Amended]

* * * * *

(d) *Special procedures for filing applications for emergency temporary authority.* (1) Emergency temporary authority shall be applied for only where emergency conditions exist which do not permit sufficient time to afford the notice specified in § 1131.3(a). Where the application demonstrates the existence of these emergency conditions, action will normally be taken without the Commission's notifying interested parties other than by making the application available to the public at the Commission office at which it is filed. An applicant for emergency temporary authority shall certify to the Commission in writing that it has sent each known competing carrier [including existing carriers from whom shipper has made efforts to obtain service] a copy of its application for emergency temporary authority [including the Appendix or Certification of Support] by first class mail, postage prepaid, to the carrier's last known business address.

* * * * *

This decision does not appear to affect significantly the quality of the human environment or energy consumption.

This proposed action is not expected to have a negative impact on small businesses. Comments on this matter are, however, invited.

This proposed rule is proposed under the authority contained in 49 U.S.C. 10321 and 10928, and 5 U.S.C. 553.

Decided: February 12, 1981.

By the Commission, Chairman Gaskins, Vice Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6169 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1310

[Ex Parte No. MC-77 (Sub-3)]

Elimination of Certificates as the Measure of Holding-Out

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing comments.

SUMMARY: Public notice of this proceeding was served January 22, 1981 and published on January 27, 1981 at 46 FR 8604. In that notice, it was provided that comments by interested persons were scheduled as due 30 days from the date of publication in the **Federal Register**. Under the terms of the notice as published, comments will be due on or before February 26, 1981.

The American Trucking Associations, Inc., and Regular Common Carrier Conference seek an extension for the filing of comments in this proceeding. Because of the complexity of the issues in this proceeding, a short extension will be granted to Monday, March 9, 1981. Further extensions, however, will in all probability be denied.

DATES: Comments in this proceeding are due on or before March 9, 1981.

ADDRESS: An original and 15 copies, if possible, of comments should be sent to: Ex Parte No. MC-77 (Sub-3), Room 5316, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Edward E. Guthrie (202) 275-7691
Dan Campbell (202) 275-7426

By the Commission. Marcus Alexis, Acting Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6073 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 46, No. 36
Tuesday, February 24, 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

Agricultural Stabilization and Conservation Service

Cigar Tobaccos; Referendums

Notice is hereby given that on February 23 through February 27, 1981, each inclusive, separate referendums will be held of farmers engaged in the production of the 1980 crop of cigar binder (types 51 & 52) and cigar filler and binder tobacco.

Notice was given (45 FR 75219) that consideration would be given to data views and recommendations in establishing the 1981 national quota, the national reserve, the dates or periods for holding the referendums and whether the referendums should be conducted at polling places rather than by mail ballot. One comment was received. It requested that the cigar-filler and binder referendum be held by mail ballot.

It is hereby determined that these referendums will be held by mail ballot during the period February 23–27, 1981, inclusive. The purpose of the referendums is to determine whether cigar binder (types 51 & 52) and cigar-filler and binder tobacco farmers are in favor of or opposed to marketing quotas for the 1981–82, 1982–83, and 1983–84 marketing years. The referendums will be conducted in accordance with the provisions of Section 312(c) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1312(c)) and the regulations set forth in 7 CFR Part 717.

Signed at Washington, D.C. on February 18, 1981.

Edward Hews,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 81-6177 Filed 2-23-81; 8:45 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

[Order 81-2-63; Docket 39227]

U.S.-Federal Republic of Germany Fare Revisions Proposed by Deutsche Lufthansa Aktiengesellschaft; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 30th day of January, 1981.

In a series of recent tariff revisions, Deutsche Lufthansa Aktiengesellshaft (Lufthansa) has proposed introduction of a "special" group incentive fare from nine U.S. cities to Frankfurt and Munich;[1] introduction of an incentive group fare from seven U.S. cities to Frankfurt and Munich;[2] and expansion of the maximum-stay restrictions on U.S.-Germany excursion, Holiday and winter group inclusive-tour fares from 60 days to 3 months.[3]

We have decided to suspend most of Lufthansa's fare revisions.[4]

Our action against Lufthansa's ex-U.S. initiatives is taken with extreme reluctance. We believe, however, that the significant relaxation of governmental surveillance of fares which we envisioned under the U.S.-Germany Protocol of 1978 has been seriously jeopardized by the German aeronautical authorities.

The Board has, since the signing of the U.S.-Germany Protocol in 1978, permitted Lufthansa full pricing flexibility, including ex-U.S. price leadership. In our view, many provisions in the Protocol campel this liberal stance. It is now obvious that our liberality has not evoked a proper and reciprocal response by the German authorities. Since the signing of the Protocol, the German authorities have routinely thwarted U.S. carrier pricing initiatives which varied from the filings of its national carrier. These adverse actions, which have included notices of dissatisfaction as well as less formal modes of communication, involved such diverse matters as discount fare conditions, introduction of budget and standby fares, group contractor fares, and hinging of permit approvals on matching Lufthansa fare levels. Recently, the German authorities have disapproved, over the objections of the U.S. government, a TWA tariff which the carrier believes merely matches a Lufthansa tariff filing.

The merits of this latest controversy are under review in Docket 39072. Any action on our part in that connection must necessarily await our review of the pleadings in that case and our findings. The action we reluctantly take today under section 1002 of the Act is a response to the German authorities' lack of reciprocity and comity on the price leadership issue.

Under these circumstances, we have no alternative but to deny Lufthansa's ex-U.S. fare proposals which vary from those approved for U.S. carriers. The traveling public stands to gain much more over the long run by our insistence on strict observance of the Protocol of 1978, then it will lose by the suspension of Lufthansa's fare proposals. It is our hope that any impediments to the resumption of normal aviation price relations with Germany can be overcome in forthcoming intergovernmental consultations.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in Appendices A and B hereof, and rules and regulations or practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial

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[1] The "special" incentive group fare, available only for basic-season travel, involves a minimum group size of 50 passengers and a 5/60-day minimum/ maximum-stay period. It became effective January 11, 1981 (to Frankfurt), and December 26, 1980 (to Munich). The nine U.S. cities are Atlanta, Boston, Chicago, Dallas, Los Angeles, Miami, New York, Philadelphia and San Francisco.

[2] The incentive group fare, available all year, involves a minimum group size of ten (during the peak season) or five (during the basic season) and a one-year maximum-stay period. It is intended for effectiveness April 1, 1981, the seven U.S. cities are those above, excluding Boston and Philadelphia.

[3] Effective as of January 1 and 18, 1981.

[4] for reasons explained *infra*, we are suspending only those revisions which constitute liberalizations in the U.S.-Germany fares structure and hence represent Lufthansa as a competitive pricing "leader". We are therefore suspending the "special" incentive group fare since it is a new fare. The incentive group fare, however, is already offered by TransWorld Airlines, Inc. (TWA); we will therefore suspend it only in those markets—Atlanta, Chicago, Dallas and Miami—where Lufthansa's levels undercut those of TWA, and permit its implementation in those markets—Los Angeles, New York and San Francisco—where Lufthansa's levels match or exceed those of TWA. Lufthansa's new maximum-stay provisions are more liberal than those of its U.S. carrier competitors but, in accordance with our country-of-origin pricing agreement with the Federal Republic of Germany, we will suspend them only insofar as they apply to U.S.-originating travel.

or otherwise unlawful or contrary to the public interest; and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we suspend and defer the use of the tariff provisions in the attached:

Appendix A from February 15, 1981, to and including February 14, 1982;

Appendix B from April 1, 1981, to and including March 31, 1982; unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President [5] and, unless disapproved by the President within ten days, it shall become effective:

February 15, 1981, with respect to tariff provisions in *Appendix A;* and

April 1, 1981, with respect to tariff provisions in *Appendix B;* and

4. We shall file copies of this order in the aforesaid tariff and serve them on Deutsche Lufthansa Aktiengsellschaft and the Ambassador of the Federal Republic of Germany in Washington, D.C.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.[6]

Phyllis T. Kaylor,

Secretary.

Appendix A—Transatlantic Passanger Fares Tariff NO A-1 C.A.B. NO. 71, Issued by Air Tariffs Corporation, Agent

Lufthansa's 2-Months Maximum-stay provisions for fares *to* Germany in the Exception to Paragraph 3.B. of *Rule 126* on:

90th, 91st, 92nd and 93rd Revised Pages 46–A (see NOTE); Lufthansa's Exception 3 to Paragraph 3.B(1) of *Rule 134* on:

13th, 14th, 15th and 16th Revised Pages 56–C (see NOTE); Lufthansa's 3–Months Maximum-stay provisions in the Exception to Paragraph 3.B of *Rule 426* on:

21st Revised Page 154–F (see NOTE);

Rule 641 on: 19th Revised Page 190–B and 2nd Revised Pages 190–BB and 190–BC; (see NOTE)

All "YLGC" Fares Subject to Rule 641:

1. *From* Atlanta *to* Frankfurt on 42nd, 43rd, 44th and 45th Revised Pages 511 (see NOTE)

2. *From* Boston *to* Frankfurt on 42nd, 43rd, 44th and 45th Revised Pages 512 (see NOTE)

3. *From* Chicago, Dallas/Ft. Worth *to* Frankfurt on 42nd, 43rd, 44th and 45th Revised Pages 512–A (see NOTE)

4. *From* Los Angeles, Miami *to* Frankfurt on 42nd, 43rd, 44th and 45th Revised Pages 512–B (see NOTE)

5. *From* New York *to* Frankfurt on 11th Revised Pages 512–BB and 12th, 13th and 14th Revised Pages 512–BC

6. *From* Philadelphia *to* Frankfurt on 33rd, 34th, 35th and 36th Revised Pages 512–C

7. *From* San Francisco *to* Frankfurt on 33rd, 34th, 35th and 36th Revised Pages 512–D

Note—The suspension of tariff provisions and fares on pages named herein does *not* stay the cancellation of like provisions and fares on previous revisions of said pages.

8. *From* Atlanta, Boston *to* Munich on 42nd, 43rd, 44th and 45th Revised Pages 512 (see NOTE)

9. *From* Chicago, Dallas/Ft Worth *to* Munich on 42nd, 43rd, 44th and 45th Revised Pages 512–A (see NOTE)

10. *From* Los Angeles, Miami *to* Munich on 42nd, 43rd, 44th and 45th Revised Page 512–B (see NOTE)

11. *From* New York *to* Munich on 11th Revised Page 512–BC (see NOTE) and Original and 1st Revised Pages 512–BE

12. *From* Philadelphia *to* Munich on 33rd, 34th, 35th and 36th Revised Pages 512–C (see NOTE)

13. *From* San Francisco *to* Munich on 33rd, 34th, 35th and 36th Revised Pages 512–D

Note—The suspension of tariff provisions and fares on pages named herein *does* not stay the cancellation of like provisions and fares on previous revisions of said pages.

Lufthansa's provisions in Rule 629, insofar as such provisions apply to fares:

From: Atlanta, Chicago, Dallas/Ft Worth, Miami.

To: Frankfurt, Munich on 22nd and 23rd Revised Pages 188–C and 188–D and 13th and 14th Revised Pages 188–E.

ALL "YHGC" and "YLGC" Fares subject to Rule 629:

A. *From* Atlanta *to* Frankfurt on 36th, 37th, 38th, 39th, 40th, 42nd, 43rd, 44th and 45th Revised Page 511

B. *From* Atlanta *to* Munich on 36th, 37th, 38th, and 39th Revised Pages 511 and 40th, 42nd, 43rd, 44th and 45th Revised Page 512

C. *From* Chicago *to* Frankfurt and Munich on 39th Revised Page 511 and 41st, 42nd, 43rd and 44th Revised Pages 512–A

D. *From* Dallas/Ft Worth *to* Frankfurt and Munich on 36th, 37th, 38th and 39th Revised Pages 512 and 41st, 42nd, 43rd, 44th and 45th Revised Pages 512–A

E. *From* Miami *to* Frankfurt and Munich on 36th Revised Page 512 and 41st, 42nd, 43rd, 44th and 45th Revised Pages 512–B

[FR Doc. 81-6179 Filed 2-23-81; 8:45 am]

BILLING CODE 6320-01-M

[5] We submitted this order to the President on February 2, 1981.

[6] All Members concurred.

DEPARTMENT OF COMMERCE

International Trade Administration

Clearinghouse Depository for Handicapped Students; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 80–00327.

Applicant: Clearinghouse Depository for Handicapped Students, California St. Department of Education, 721 Capitol Mall, Sacramento, CA 95814.

Article: Braille Magnetic Recorder.

Manufacturer: Elinfa, Inc., France.

Intended use of article: See Notice on page 47894 in the **Federal Register** of July 17, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a digitized recording code and procedure. The Department of Health and Human Services advises in its memorandum dated November 12, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-6028 Filed 2-23-81; 8:45 am]

BILLING CODE 3510-25-M

Tulane University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 80-00395.
Applicant: Tulane University, 6823 St. Chas. Ave., New Orleans, LA 70118.
Article: Solar Panel Test Facility MSTF-1 and Accessories.
Manufacturer: Solarfin Products, Canada.
Intended use of Article: See Notice on page 66829 in the Federal Register of October 8, 1980.
Comments: No comments have been received with respect to this application.
Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.
Reasons: The foreign article permits demonstration of a variety of collector principles (utilizing several different test collectors with different absorption rates). The National Bureau of Standards advises in its memorandum dated November 6, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for an applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.
(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-6030 Filed 2-23-81; 8:45 am]
BILLING CODE 3510-25-M

University of Maryland; Decision on Application For Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 80-00349.
Applicant: University of Maryland Center for Environmental & Estuarine Studies, Horn Point Environmental Laboratories, P.O. Box 775, Cambridge, Maryland 21613.
Article: N-15 Analyzer, Model NOI-5.
Manufacturer: DEV Straton (Company) East Germany.
Intended use of Article: See Notice on page 56122 in the Federal Register of August 22, 1980.
Comments: No comments have been received with respect to this application.
Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.
Reasons: The foreign article rapidly distinguishes abundance of tracer nitrogen-15 relative to nitrogen-14. The Department of Health and Human Services advises in its memorandum dated November 12, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign aritcle for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-6029 Filed 2-23-81; 8:45 am]
BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency announces replacement of Project No. 02-10-80009-01 (Manhattan GBS Center) with that described below.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreements Act of 1977, will be grants.

Program Description: The General Business Services Program of the Minority Business Development Agency (MBDA) provides technical assistance without charge to eligible minority business persons and minority-owned firms for the purpose of improving their stability by increasing their management and marketing capabilities. MBDA offers competitive grants to consulting firms (either not-for-profit or commercial entities). These firms must be capable of providing such services as preparation of business plans, financial analysis, industrial management assistance, personnel management services, marketing planning and a broad range of other business services excluding legal services.

Applications are invited for the following project: One grant for a management and technical assistance project to operate in New York (Manhattan) and Queens Counties of New York State. The Project will operate at a cost not to exceed $412,000. The Project Number is 02-10-80015-01.

Eligibility Requirements: There are no restrictions. Any profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Grants Administration Unit, 26 Federal Plaza, Room 36-116, New York, New York 10278.

In requesting an application kit, the applicant must specify its profit status: i.e., State or local government, Federally recognized Indian tribal units, educational institutions, or other type of profit or non-profit institution. This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Those firms which submitted applications for Project 02-10-80009-01 will receive the specification for the replacement. All others must request them.

Award process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. Specific criteria by which applications will be evaluated is included in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of March 12, 1981. Applications received after that date will not be considered. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development

(Catalog of Federal Domestic Assistance)
(This program is not subject to the requirements of OMB Circular A-95)

Dated: February 17, 1981.

Ralph J. Perez,

Deputy Regional Director.

[FR Doc. 81-6139 Filed 2-23-81; 8:45 am]
BILLING CODE 3510-21-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

Chief, Intellectual Prop, Division OTJAG, Department of the Army, Room 2D 444, Pentagon, Washington, D.C. 20310

Patent application 4-030,218: Segmented Map and Holder; filed September 7, 1976, patented June 21, 1977. Not available NTIS.

Patent application 4-154,141: Ultrafast, Linearly-Deflagration Ignition System; filed May 17, 1977, patented May 15, 1979. Not available NTIS.

Patent application 4-159,679: Projectile Fuze; filed August 29, 1977, patented July 3, 1979. Not available NTIS.

Patent application 4-159,680: Random Delay timer; filed May 1, 1978, patented July 3, 1979. Not available NTIS.

Patent application 4-160,415: Target Activated Projectile; filed May 5, 1978, patented July 10, 1979. Not available NTIS.

Patent application 4-160,416: Programmed Self-Destruct System for a Munition; filed April 20, 1978, patented July 10, 1979. Not available NTIS.

Patent application 4-160,927: Ferroelectric Ceramic Devices; filed April 5, 1977, patented July 10, 1979. Not available NTIS.

Patent application 4-161,070: Laser Rangefinder Trainer; filed June 20, 1978, patented July 17, 1979. Not available NTIS.

Patent application 4-161,760: Short Circuit Protection of Regulated Power Supplies; filed May 22, 1978, patented June 17, 1979. Not available NTIS.

Patent application 4-163,238: Infrared Semiconductor Device with Superlattice Region; filed June 9, 1978, patented July 31, 1979. Not available NTIS.

Patent application 4-163,328: Moving Target Screen with Improved Optical Control; filed March 10, 1978, patented August 7, 1979. Not available NTIS.

Patent application 4-163,845: Recycle of Spent Acid in Nitrolysis of Hexamine to RDX; filed April 26, 1978, patented August 7, 1979. Not available NTIS.

Patent application 4-164,700: High Pressure Apparatus for Microwave Resonance spectroscopy; filed May 8, 1978, patented February 14, 1979. Not available NTIS.

Patent application 4-164,888: Rocket Remote Engagement Mechanism; filed September 1, 1977, patented August 21, 1979. Not available NTIS.

Patent application 4-165,081: Constant Force Face Seal; filed April 14, 1978, patented August 21, 1979. Not available NTIS.

Patent application 4-165,906: Track Shoe Having Replaceable Pad; filed February 15, 1978, patented August 28, 1979. Not available NTIS.

Patent application 4-166,874: Crashworthy Fuel Cell Repair; filed September 22, 1978, patented September 4, 1979. Not available NTIS.

Patent application 4-167,010: Terminated Microstrip Antenna; filed March 13, 1978, patented September 4, 1979. Not available NTIS.

Patent application 4-167,428: Conductance Method for Determining the Mechanical Properties of Propellants; filed May 17, 1974, patented September 11, 1979. Not available NTIS.

Patent application 4-167,463: Nitrogen Fixation with a High Energy Laser; filed April 12, 1978, patented September 11, 1979. Not available NTIS.

Patent application 4-167,666: Multi-Grating Attenuator for High Power Pulsed Laser Beams; filed April 28, 1978, patented September 11, 1979. Not available NTIS.

Patent application 4-167,905: Hand Grenade Fuze with Self-Induced Spin for Arming; filed September 1, 1977, patented September 18, 1979. Not available NTIS.

Patent application 4-168,931: Freight Container Transport; filed September 26, 1977, patented September 25, 1979. Not available NTIS.

Patent application 4-169,236: Rotation of Characteristic Vectors with Piezoelectric Coupling; filed December 30, 1977, patented September 25, 1979. Not available NTIS.

Patent application 4-169,265: P-Band Loop Antennas in Radial Array; filed May 4, 1978, patented September 25, 1979. Not available NTIS.

Patent application 4-170,757: Method of an Apparatus for Transmitting Clandestine Radio Signals; filed December 30, 1977, patented October 9, 1979. Not available NTIS.

Patent application 4-171,663: Tension Fracture Fitting in Missile Separation Thruster; filed November 22, 1977, patented October 23, 1979. Not available NTIS.

Patent application 4-172,410: Helical Lock for Automatic Gun; filed January 23, 1978, patented October 30, 1979. Not available NTIS.

Patent application 4-172,570: Landing Gear In-Flight Vibration Dampener; filed January 13, 1978, patented October 30, 1979. Not available NTIS.

Patent application 4-173,017: Programmable Signal Processor for Doppler Filtering; filed April 11, 1977, patented October 30, 1979. Not available NTIS.

Patent application 4-173,186: Ammunition; filed July 7, 1960, patented November 6, 1979. Not available NTIS.

Patent application 4-173,187: Multipurpose Protection System; filed September 22, 1967, patented November 6, 1979. Not available NTIS.

Patent application 4-174,137: Control Rod Roll-Over Limiter; filed July 24, 1978, patented November 13, 1979. Not available NTIS.

Patent application 4-175,913: Helicopter Rotor Head Mounting Assembly; filed January 13, 1978, patented November 27, 1979. Not available NTIS.

Patent application 4-176,392: Series Induction/Parallel Inverter Power Stage and Power Staging Method for DC-Dc Power Converter; filed December 14, 1977, patented November 27, 1979. Not available NTIS.

Patent application 4-176,608: Electrically Energized Impact Detonated Projectile with Safety Device; filed May 8, 1978, patented December 4, 1979. Not available NTIS.

Patent application 4-178,099: Scanning Optical Spectral Analyzer; filed October 31, 1977, patented December 11, 1979. Not available NTIS.

Patent application 4-178,832: Automatic Gun Having Gas Leakage Control Mechanism; filed May 25, 1978, patented December 18, 1979. Not available NTIS.

Patent application 4-178,851: Dual Purpose Munition; filed March 8, 1972, patented December 18, 1979. Not available NTIS.

Patent application 4-179,085: Optical Boresight Method for Nutating System; filed January 3, 1978, patented December 18, 1979. Not available NTIS.

Patent application 4-179,088: Offset Beacon Homing; filed November 17, 1976, patented December 18, 1979. Not available NTIS.

Patent application 4-179,599: Laser Plasmatron; filed May 8, 1978, patented December 18, 1979. Not available NTIS.

Patent application 4-179,792: Low Temperature CMOS/SOS Process Using Dry Pressure Oxidation; filed April 10, 1978, patented December 25, 1979. Not available NTIS.

Patent application 4-179,795: Method for Forming a Drive Hole in Arc Plasma Spray Fabricated Ferrite Phasors; filed June 15, 1978, patented December 25, 1979. Not available NTIS.

Patent application 4-179,992: Primer-Igniter for Gun Propellants; filed April 4, 1978, patented December 25, 1979. Not available NTIS.

Patent application 4-180,424: Control of Burning Rate and Burning Rate Exponent by Particle Size in Gun Propellants; filed July 11, 1977, patented December 25, 1979. Not available NTIS.

Patent application 4-180,535: Method of Bonding Propellants Containing Mobile Constituents; filed September 5, 1978,

patented December 25, 1979. Not available NTIS.

Patent application 4–180,599: Crosslinking Photoinitiators of Acrylic Benzophanonetetracarboxylates; filed August 25, 1978, patented December 25, 1979. Not available NTIS.

Patent application 4–180,754: Geiger-Mueller Tube with a Re-entrant Insulator at Opposing Sealed Ends Thereof; filed August 10, 1978, patented January 15, 1980. Not available NTIS.

Patent application 4–183,097: Body Armor for Women; filed March 6, 1978, patented December 25, 1979. Not available NTIS.

Patent application 4–183,215: Pedal Linkage Hydraulic Brake Booster; filed July 22, 1977, patented January 15, 1980. Not available NTIS.

Patent application 4–184,117: Communication Security Method and System; filed April 16, 1956, patented January 15, 1980. Not available NTIS.

Patent application 4–185,244: High Voltage Nanosecond Pulser Using a Repetitive Series Interrupter; filed April 12, 1978, patented January 22, 1980. Not available NTIS.

Patent application 4–185,289: Spherical Antennas having Isotropic Radiation Patterns; filed September 13, 1978, patented January 22, 1980. Not available NTIS.

Patent application 4–185,796: Fiber Optic Missile Guidance and Control; filed December 13, 1976, patented January 29, 1980. Not available NTIS.

Patent application 4–186,040: "BZ" Containing Pyrotechnic Compositions; filed December 2, 1964., patented January 29, 1980. Not available NTIS.

Patent application 4–186,046: Growing Doped Single Crystal Ceramic Materials; filed November 28, 1977, patented January 29, 1980. Not available NTIS.

Patent application 4–187,351: IMVIC Test Method; filed November 25, 1977, patented February 5, 1980. Not available NTIS.

Patent application 4–187,458: Constant Power Regenerative Magnetic Switching Regulator; filed August 7, 1978, patented February 5, 1980. Not available NTIS.

Patent application 4–187,501: Electronic Intruder Detection System; filed October 7, 1977, patented February 5, 1980. Not available NTIS.

Patent application 4–187,723: Liquid Nitrogen Level Indicator; filed October 16, 1978, patented February 12, 1980. Not available NTIS.

Patent application 4–187,782: Shaped Charge Device; filed April 26, 1978, patented February 12, 1980. Not available NTIS.

Patent application 4–187,783: Shaped Charge Device; filed April 26, 1978, patented February 12, 1980. Not available NTIS.

Patent application 4–187,783: Discarding Sabot Munition; filed March 13, 1978, patented February 12, 1980. Not available NTIS.

Patent application 4–188,503: Digital Data Communications System; filed July 5, 1978, patented February 12, 1980. Not available NTIS.

Patent application 4–188,576: Angular Rate Sensor; filed September 11, 1978, patented February 12, 1980. Not available NTIS.

Patent application 4–188,908: Novel Microscope Slide Smoker; filed January 15, 1979, patented February 19, 1980. Not available NTIS.

Patent application 4–191,087: Rocket Detent and Release Mechanism; filed August 14, 1978, patented March 4, 1980. Not available NTIS.

Patent application 4–191,088: Ammunition Feeder Having Two Feed Pawls; filed April 10, 1978, patented March 4, 1980. Not available NTIS.

Patent application 4–191,686: Radiation Dose Rate Indicator; filed July 31, 1978, patented March 4, 1980. Not available NTIS.

Patent application 4–191,959: Microstrip Antenna with Circular Polarization; filed July 17, 1978, patented March 4, 1980. Not available NTIS.

Patent application 4–193,286: Vehicle Control Arm Spreader Tool; filed May 18, 1978, patented March 18, 1980. Not available NTIS.

Patent application 4–194,187: Analog-to-Digital Conversion by Charge Coupled Device; filed August 7, 1978, patented March 18, 1980. Not available NTIS.

Patent application 4–194,304: Loader and Recoil Simulation Trainer for Artillery Crews; filed November 2, 1978, patented March 25, 1980. Not available NTIS.

Patent application 4–194,431: Active Armor; filed July 5, 1966, patented March 25, 1980. Not available NTIS.

Patent application 4–194,643: Method and Apparatus for Frit-Sealing High Temperature CRT Faceplate to Conventional CRT Envelope; filed December 19, 19~8, patented March 25, 1980. Not available NTIS.

Patent application 4–194,929: Technique for Passivating Stainless Steel; filed September 8, 1978, patented March 25, 1980. Not available NTIS.

Patent application 4–195,144: Copolymers of Alpha-N-Alkylstyrenes and Styrene; filed October 19, 1978, patented March 25, 1980. Not available NTIS.

Patent application 4–195,195: Tape Automated Bonding Test Board; filed September 28, 1978, patented March 25, 1980. Not available NTIS.

Patent application 4–195,745: Thermally Sensitive Pressure Release Assembly for Sealed Pressurized Vessel; filed February 13, 1978, patented April 1, 1980. Not available NTIS.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, D.C. 20324

Patent application 6–150,323: Laser Stimulated Raman Molecular Beam Time and Frequency Standard; filed May 16, 1980.

Patent application 6–175,793: Method for Testing and Analyzing Surface Acoustic Wave Interdigital Transducers; filed August 6, 1980.

Patent application 6–175,794: compensated Temperature Sensing Device; filed August 6, 1980.

Patent application 6–175,795: Adaptive Interference Tracker for Suppression of Narrow Band Interference; filed August 6, 1980.

Patent application 6–176,434: Simultaneous Signal Detector for an Instanteous Frequency Measurement Receiver; filed August 8, 1980.

Patent application 6–176,435: Self-Calibrating Interferometer; filed August 8, 1980.

Patent application 6–176,436: Fiber Optic Switching Device; filed August 8, 1980.

Patent application 6–176,437: Survival Target Acquisition and Designation System; filed August 8, 1980.

Patent application 6–177,335: Air Assist Apparatus for Gas Turbomachine Augmentor Spraying; filed August 12, 1980.

Patent application 6–178,042: Continuous Force Actuator; filed August 14, 1980.

U.S. Department of the Navy, Director, Navy Patent Program/Patent Counsel for the Navy, Office of Naval Research, Code 302, Arlington, VA 22217

Patent application 4–219,045: Sea Water Pressure Regulator Valve; filed December 22,1978, patented August 26, 1980. Not available NTIS.

Patent application 4–219,885: Sonar Target Simulator; filed September 8, 1964, patented August 26, 1980. Not available NTIS.

Patent application 4–220,411: Fiber Optic Light Launching Assembly; filed August 14, 1978, patented September 2, 1980. Not available NTIS.

Patent application 4–220,952: Random FM Autocorrelation Fuze System; filed February 17, 1956, patented September 2, 1980. Not available NTIS.

Patent application 4–222,051: Cascaded Digital Cancelers; filed January 18, 1979, patented September 9, 1980. Not available NTIS.

Patent application 4–222,118: Intelligent Automatic Gain Control Circuit; filed July 31, 1978, patented September 9, 1980. Not available NTIS.

Patent application 4–223,123: Aliphatic Phenoxy Polyphthal ocyanine; filed May 29, 1979, patented September 16, 1980. Not available NTIS.

Patent application 4–223,400: Low-Frequency Directional Hydrophone; filed September 28, 1978, patented September 16, 1980. Not available NTIS.

Patent application 4–225,239: Magneto-Optic Bias of Ring Laser Using Reflective Magneto-Optic Element at near Grazing Incidence; filed July 5, 1979, patented September 30, 1980. Not available NTIS.

Patent application 4–225,831: CW Scalable Donor-Acceptor Gas Transfer Laser; filed August 10, 1978, patented September 30, 1980. Not available NTIS.

Nat. Aeronautics & Space Admin., Assist. Gen. Couns. for Pat. Matters, NASA Code GP–4 Washington, DC 20546

Patent application 6–165,910: Multibeam Single Frequency Synthetic Aperture Radar Processor for Imaging Separate Range Swaths; filed July 3, 1980.

Patent application 6–168,995: Electrical Self-Aligning Connector; filed July 15, 1980.

Patent application 6–171,933: Liquid Immersion Apparatus for minute Articles; filed July 18, 1980.

Patent application 6–175,453: Improved Low-Drag Ground Vehicle Particularly Suited

for Use in Safely Transporting Livestock; filed August 5, 1980.
Patent application 6–185,865: Pocket Ecg Electrode; filed September 11, 1960.
Patent application 6–185,867: Improving the Efficiency of Silicon Solar Cells Containing Chromium; filed September 11, 1980.
Patent application 6–185,869: Multiple Pure Tone Elimination Strut Assembly; filed September 11, 1980.
Patent application 4–118,427: Curable Liquid Hydrocarbon prepolymers Containing Hydroxyl Groups and Process for Producing Same; filed June 28, 1973, patented October 3, 1980. Not available NTIS.
Patent application 4–196,129: Prepolymer Dianhydrides; filed August 14, 1978, patented April 1, 1980. Not available NTIS.
Patent application 4–210,278: Apparatus for Supplying Conditioned Air at a Substantially Constant Temperature and Humidity; filed February 6, 1979, patented July 1, 1980. Not available NTIS.
Patent application 4–214,226: System for Plotting Subsoil Structure and Method Therefor; filed September 6, 1977, patented July 22, 1980. Not available NTIS.
Patent application 4–214,703: Aircraft Engine Nozzle; filed March 23, 1979, patented July 29, 1980. Not available NTIS.
Patent application 4–214,902: High Toughness-High Strength Iron Alloy; filed January 25, 1979, patented July 29, 1980. Not available NTIS.
Patent application 4–215,273: Multispectral Scanner Optical System, filed March 29, 1979, patented July 29, 1980. Not available NTIS.
Patent application 4–215,327: Support Assembly for Cryogenically Coolable Low-Noise Choke Waveguide. Filed August 31, 1978, patented July 29, 1980. Not available NTIS.
Patent application 4–215,345: Interferometric Locating System. Filed August 31, 1978, patented July 29, 1980. Not available NTIS.
Patent application 4–215,590: Belt for Transmitting Power from a Cogged Driving Member to a Cogged Driven Member. Filed September 18, 1978, patented August 5, 1980. Not available NTIS.
Patent application 4–215,592: Redundant Motor Drive System. Filed August 4, 1978, patented August 5, 1980. Not available NTIS.
Patent application 4–218,280: Method of Cross-Linking Polyvinyl Alcohol and Other Water Soluble Resins; filed December 20, 1978, patented August 19, 1980. Not available NTIS.
Patent application 4–218,633: Hydrogen Hollow Cathode Ion Source. Filed October 23, 1978, patented August 19, 1960. Not available NTIS.
Patent application 4–218,650: Apparatus for Measuring Semiconductor Device Resistance; filed June 23, 1978, patented August 19, 1980. Not available NTIS.
Patent application 4–218,682: Multiple Band Circularly Polarized Microstrip Antenna; filed June 22, 1979, patented August 19, 1980. Not available NTIS.

[FR Doc. 81-6140 Filed 2-23-81; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Chief of Engineers, Environmental Advisory Board; Meeting; Correction

ACTION: Notice of correction to a previously announced meeting.

The next meeting of the Chief of Engineers Environmental Advisory Board originally announced in the **Federal Register** January 29, 1981 (46 FR 9690) to be held 2–5 March 1981, has been changed to 21–24 April 1981. The times and subjects of the meeting will be the same as previously announced. The meeting will be held in the Board of Engineers for Rivers and Harbors Hearing Room, Kingman Building, on Leaf Road, Ft. Belvoir, Virginia.

FOR FURTHER INFORMATION CONTACT: LTC George F. Boone, Assistant Director of Civil Works, Environmental Programs, Office of the Chief of Engineers. Telephone: 202–272–0103.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 81-6019 Filed 2-23-81; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF ENERGY

Finding of No Significant Impact for Improved Uranium Utilization Program

AGENCY: Department of Energy.

ACTION: Finding of no significant impact.

SUMMARY: A notice of availability of an environmental assessment and a proposed Finding of No Significant Impact for a research, development, and demonstration program to improve uranium utilization in light water reactors were issued in the **Federal Register** on October 2, 1980 (45 FR 65276) for a 30-day public review period prior to a determination whether to prepare an environmental impact statement, pursuant to § 1501.4(e) of the Council on Environmental Quality regulations for implementing the National Enviornmental Policy Act. A total of 20 comments were received on the proposed finding. Based on our review of these comments, and upon further consideration of the findings of the environmental assessment, which is available to the public on request, we have determined that the previous tentative conclusion is valid (i.e., the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*). Therefore, no environmental impact statement is required.

Singles copies of the environmental assessment are available from: George Sherwood, Program Manager, NE–53, U.S. Department of Energy, Washington, D.C. 20545 (301) 353–3481.

Date issued: February 17, 1981.

Alex G. Fremling,

Acting Assistant Secretary for Environment.

[FR Doc. 81-6051 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Civil Uses of Atomic Energy; Proposed Subsequent Arrangement Between U.S. and Japan

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the sale of 60 grams of uranium hexaflouride containing 0.519% U–235, 60 grams of uranium hexaflouride containing 0.665% U–235, and 60 grams of uranium hexaflouride containing 0.994% U–235, to be used as standard samples in the research and development of ultra-centrifuge for uranium enrichment at the Tokai Laboratory, Tokai-Mura, Japan.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of this nuclear material under Contract Number S–JA–291 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.
Dated: February 18, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-6184 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Case No. 52416-9165-21, 22-22; Docket No. ERA-FC-80-031]

Puget Sound Power & Light Co.; Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of order granting public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it will hold a public hearing concerning Puget Sound Power & light Company's (Puget Sound) petitions for permanent peakload powerplant exemptions from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act). The date, time and address of the hearing will be announced in the **Federal Register** at a later time.

FOR FURTHER INFORMATION CONTACT:

Jack C. Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110 Washington, D.C. 20461 (202) 653-4055

Kathleen J. Ewing, FUA Public Hearings Staff, Economic Regulatory Administration, Case Control Unit, Box 4629, Room 3009 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-4258

Marilyn Ross, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Room 6B-178, Washington, D.C. 20585 (202) 252-2967

SUPPLEMENTARY INFORMATION: On August 5, 1980, Puget Sound petitioned ERA for two permanent peakload powerplant exemptions from the prohibitions of FUA.

Puget Sound plans to install two 81,000 KW natural gas/oil-fired combustion turbine units to be known as Frederickson Generating Station unit Nos. 1 and 2, and certifies that each of these units will be operated solely as peakload powerplants to meet peakload requirements for the life of the plants.

ERA accepted the petitons on October 2, 1980, and published notice of its acceptance in the **Federal Register** on October 9, 1980 (45 FR 67126). Publication of the Notice of Acceptance commenced a 45-day comment period, during which interested persons were afforded an opportunity to file comments and to request a public hearing on the petitions. The comment period ended November 24, 1980. Comments on Puget Sound's petitions were received from: (1) the Washington Utilities and Transportation Commission: (2) J. Nichol Roehr M.D., of Heath-Arnold Radiologists, Inc., P.S.: (3) the Oil Heat Institute of Washington (OHI-W); (4) the Boeing Company; and (5) Georgia-Pacific Corporation, Bellingham Division. OHI-W also requested that a public hearing on the petitions be held in Seattle, Washington.

ERA published a Notice of Availability of Tentative Staff Analysis in the **Federal Register** on January 26, 1981 (45 FR 8077).

The Tentative Staff Analysis recommends that ERA issue an order granting Puget Sound's the permanent peakload powerplant exemptions for the Frederickson Units. A copy of this Tentative Staff Analysis is available from the Office of Public Information at the address listed above.

Following the publication of the Notice of Availability of the Tentative Staff Analysis, ERA received a renewed request for a public hearing from the OHI-W. ERA has determined to grant this request, and has appointed Lawrence A. Gollomp, Esq., Acting Assistant General Counsel for Regulatory Interventions, as the Presiding Officer in the proceeding.

At the public hearing, ERA will provide interested persons an opportunity to present oral or written data, views and arguments on the petitions for exemption. In additon, in accordance with 10 CFR § 401.34(f), interested persons will be given an opportunity to question (1) other interested persons who make oral presentations, (2) employees and contractors of the United States who have made written or oral presentations or who have participated in the consideration of the Puget Sound petitions, and (3) experts and consultants who have provided information to any person who makes an oral presentation and which is contained in or referred to in such presentation.

Persons who wish to participate in the hearing or who wish to be included on the service list, must submit their names to the Presiding Officer, c/o FUA Public Hearing Staff, Economic Regulatory Administration, Case Control Unit (FUA), Box 4629, Room 3009, 2000 M Street, N.W., Washington, D.C. 20461 by March 7, 1981. In accordance with the provisions of 10 CFR §§ 501.33 and 501.34, that request shall include (1) a description of that party's interest in the issue or issues involved in the proceeding and (2) an outline of the anticipated content of the presentation, identifying any witnesses that are intended to be called at the hearing, a summary of their anticipated testimony and/or questions to be asked and a list of exhibits to be presented and a list of government and/or utility personnel which the parties wish to examine. The date, time and place of the hearing will be announced in the **Federal Register** following the establishment of the service list.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

February 17, 1981.

[FR Doc. 81-6050 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 3630-000 and 3670-000]

City of Bellevue and Mitchell Energy Co., Inc., Applications for Preliminary Permits

Feburary 19, 1981.

Take notice that City of Bellevue (CB) and Mitchell Energy Company Inc. (MEC), (Applicants) filed on October 31, 1980, and November 4, 1980, respectively, competing applications for preliminary permits [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Projects Nos. 3630 and 3670, respectively, to be known as Mississippi Lock and Dam No. 12 Located on the Mississippi River in Jackson County, Iowa. The applications are on file with the Commission and are available for public inspection. Correspondence with the Applicants should be directed to: Mr. David Heiar, city Administrator, City of Bellevue, Bellevue, Iowa 52031, and Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116, respectively. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed projects would utilize an existing dam and reservoir owned by the U.S. Army Corps of Engineers, and the projects facilities would be located mostly on U.S. lands.

The proposed (CB) Project No. 3630 would consist of: (1) a proposed powerhouse, located on top of the existing dam or at the east end of the dam, with generating units having a total maximum installed capacity of 19,250 kW; (2) proposed transmission lines; and (3) appurtenant facilities. The

estimated maximum annual energy output would be 77,291,500 kWh.

The proposed (MEC) Project No. 3670 would consist of: (1) a proposed powerhouse, located at the east end of the existing dam, with generating units having a total installed capacity of 14,000 kW; (2) proposed transmission lines; and (3) appurtenant facilities. The estimated average annual energy output would be 72,000,000 kWh.

Purpose of Projects—Energy produced by the City of Bellevue Project No. 3630 would be used to replace the fuel oil used by the City.

Energy produced by Mitchell Energy Company, Inc., Project No. 3670 would be sold to Iowa Power and Light Company.

Proposed Scope and Cost of Studies under Permit—The City of Bellevue seeks issuance of a preliminary permit for a period of 36 months. Mitchell Energy Company, Inc. seeks issuance of a preliminary permit for a period of 24 months. Each Applicant, during the time period specified, would determine the economic feasibility of his project, consult with Federal, State, and local government agencies concerning the potential environmental effects of his project and prepare an application for FERC license, including an environmental report. Each Applicant estimates the cost of studies under the permit would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing appliation must submit to the Commission, on or before April 24, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 24, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Projects Nos. 3630 and 3670. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by the providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice:

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6002 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project Nos. 4027 and 4048]

Central Maine Power Co. et al.; Applications for Preliminary Permit

February 19, 1981.

Take notice that Central Maine Power Company and Union Water Power Company (CMP) filed on January 16, 1981, an application for preliminary permit [persuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 4027 to be known as the Middle Project located on the Lower and Upper Richardson Lakes in Oxford County, Maine. An application was also filed on January 22, 1981 by New England Hydro (New England) for the Middle Project No. 4048 at the same exact location. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicants should be directed to: Jon S. Readnour, Central Maine Power Company, Edison Drive, Augusta, Maine 04336 and Mr. Andre Jaeger, 3 Great Pasture Road, West Redding, Connecticut 06896. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed Project No. 4027 would consist of: (1) an existing 255-foot long, 26.5-foot high, rock-filled crib dam with a 300-foot long earthen wing dike extending from the south abutment and a 100-foot long earthen wing dike extending from the north abutment; (2) Richardson Lakes with a surface area of 7,470 acres and a storage capacity of 130,738 acre-feet; (3) a new powerhouse located immediately below the dam with a single turbine-generator with a total rated capacity of 1.5 MW; (4) a transmission line; and (5) appurtenant facilities. CMP estimates that the average annual energy output would be 7,780,000 Kwh. CMP owns the dam and flowage rights at this project.

The proposed project No. 4048 would utilize the same existing dam and reservoir and would include a new powerhouse also located immediately below the dam containing turbine-generators with a total rated capacity of 5 MW. New England estimates that the averge annual energy output would be 27,700,000 Kwh.

Purpose of Project—Energy produced at Project No. 4027 would be utilized by Central Maine Power Company for distribution to its customers. Energy produced at Project No. 4048 by New England would be sold to Central Maine Power Company.

Proposed Scope and Cost of Studies Under Permit—The work proposed under this preliminary permit would include economic evaluation, engineering plans, and an environment assessment. Based on results of these studies, Applicants would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. CMP estimates that the work to be performed under this preliminary permit would cost $100,000. New England estimates that the work to be performed under the preliminary permit would be $48,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, give the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 24, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 24, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the Title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", as applicable. Any of these filings must also state that it is made in response to this notice of applications for preliminary permit for Project No. 4027 and 4048. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6061 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project Nos. 3762-000 and 3958-000]

Continental Hydro Corp. and Enagenics; Applications for Preliminary Permit

February 19, 1981.

Take notice that Continental Hydro Corporation (CHC) and Enagenics (Applicants) filed on November 19, 1980 and January 12, 1981, respectively, competing applications for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Projects Nos. 3762 and 3958 to be known as Green River Lock and Dam No. 3 Project located at the U.S. Army Corps of Engineers' Lock and Dam No. 3, a flood control project, on the Green River in Ohio and Muhlenberg Counties near Evansville and Skilesville, Kentucky. The applications are on file with the Commission and are available for public inspection. Correspondence with CHC should be directed to: Mr. A. Gail Staker, Continental Hydro Corporation, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109. Correspondence with Enagenics should be directed to: Mr. Thomas H. Clarke, Jr., President, Enagenics, 1727 Q Street, N.W., Washington, D.C. 20009. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed projects of CHC and Enagenics would both consist of: (1) a proposed power house located on the western bank of the river; (2) proposed transmission lines; and (3) appurtenant facilities. CHC estimates the capacity of their project to be between 9.5 MW and 12.9 MW, and the annual energy output to be 37.2 GWh. Enagenics estimates the capacity of their project to be 23.2 MW, and the annual energy output to be 44.8 GWh.

Purpose of Project—CHC would sell its energy to the Tennessee Valley Authority. Enagenics would sell its energy to the Big River Corp. and Kentucky Utilities Company.

Proposed Scope and Cost of Studies under Permit—Both Applicants have requested 36-month-permits to prepare definitive project reports, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soils and foundation data. The costs of the aforementioned activities along with obtaining the agreements with other Federal, State, and local agencies are estimated to be $63,000 for Project No. 3762 while Project No. 3958 would cost $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, and market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Both applications were filed as competing applications to Eastern States Energy & Resources, Inc., Project No. 3419 on Green River Lock and Dam No. 3 in Evansville and Drakesboro, Kentucky, under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the a proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 20, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Projects Nos. 3762 and 3958. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6063 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Projects Nos. 3815-000, 3816-000, 3817-000, 3818-000, and 3819-000]

Enagenics; Applications for Preliminary Permits

February 19, 1981.

Take notice that five applications were filed for preliminary permits on December 3, 1980, under the Federal Power Act, 16 U.S.C. §§ 791(a)-825 (r) by ENAGENICS (Applicant) for the projects described below. Correspondence with the Applicant on these projects should be addressed to: Mr. Thomas H. Clarke, Jr., President, ENAGENICS, 1727 Q Street, N.W., Washington, D.C. 20009. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

South Canal Station 106 + 65 Project No. 3815, South Canal Station 19 + 50 Project No. 3817, and South Canal Station 181 + 10 Project No. 3818 would be located on the South Canal at the indicated station numbers in Montrose County, near Montrose, Colorado.

Southside Canal Station 171 + 90 Project No. 3816 would be located on the Southside Canal at Station Number 171 + 90 in Mesa County, near Mesa, Colorado.

Mt. Elbert conduit Project No. 3819 would be located at about Station Number 8 + 00 on the Mt. Elbert Conduit in Lake County, near Malta, Colordo.

Project Description—Project No. 3815 would utilize the Water and Power Resources Service's (WPRS) South Canal and would consist of: (1) a radial gate check structure; (2) a gated intake structure and trash racks; (3) an 8-foot diameter penstock, 580 feet long; (4) a powerhouse with an installed capacity of 2,100 kW; (5) a tailrace; (6) a transmission line approximately 6.5 miles long; and (7) other appurtenances. Applicant estimates the annual generation would average about 10,700,000 kWh.

Project No. 3816 would utilize the WPRS Southside Canal and would consist of: (1) a gated intake structure with trash racks; (2) a 4-foot diameter penstock, 1,000 feet long; (3) a powerhouse with an installed capacity of 2,400 kW; (4) a tailrace; (5) a transmission line about 2 miles long; and (6) other appurtenances. Applicant estimates the annual generation would average about 6,800,000 kWh.

Project No. 3817 would utilize the WPRS South Canal and would consist of: (1) a radial gate check structure; (2) a gated intake structure and trash racks; (3) a 10-foot diameter penstock, 1,575 feet long; (4) a powerhouse with an installed capacity of 3,300 kW; (5) a tailrace; (6) a transmission line about 6.5 miles long; and (7) other appurtenances. Applicant estimates the annual generation would average about 16,900,000 kWh.

Project No. 3818 would utilize the WPRS South Canal and would consist of: (1) a radial gate check structure; (2) a gated intake structure and trash racks; (3) an 8-foot diameter penstock, 2,750 feet long; (4) a powerhouse with an installed capacity of 2,500 kW; (5) a tailrace; (6) a transmission line about 6.5 miles long; and (7) other appurtenances. Applicant estimates the annual generation would average 14,400,000 kWh.

Project No. 3819 would utilize the WPRS Mt. Elbert Conduit and would consist of: (1) a bifurcation installed in the conduit upstream from valve structure No. 1 with a slide gate control in the power penstock side of the bifurcation; (2) a 57-inch diameter penstock, 600 feet long; (3) a powerhouse with an installed capacity of 1,900 kW; (4) a tailrace; (5) a transmission line about 2 miles long; and (6) other appurtenances. Applicant estimates the annual generation would average about 12,000,000 kWh.

Purposes of Projects—Project energy from projects Nos. 3815, 3816, 3817, and 3818 would be sold to the Colorado-Ute Electric Association. Project energy from Project No. 3819 would be sold to the Public Service Company of Colorado and the Western Area Power Administration.

Proposed Scope and Cost of Studies under the Permits—Applicant seeks issuance of five preliminary permits, each for a period of three years, during which time it would perform for each proposed project, data collection, site reconnaissance, hydrological studies, preliminary design and economic feasibility studies, and, as appropriate, prepare applications for FERC licenses, including environmental reports. Applicant estimates the cost of feasibility studies under each permit would be $40,000, $35,000, $45,000,

$45,000, and $33,000, for Projects Nos. 3815, 3816, 3817, 3818, and 3819, respectively.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for preliminary permits. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 24, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 24, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Projects Nos. 3815, 3816, 3817, 3818, or 3819, as applicable. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6064 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2981-000]

Enagenics; Application for Preliminary Permit

February 19, 1981.

Take notice that Enagenics (Applicant) filed on January 12, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3981 to be known as the Caballo Project located on the Rio Grande near the town of Caballo in Sierra County, New Mexico. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, Enagenics, 1727 Q Street, N.W., Washington, D.C. 20009. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing Water and Power Resources Services' Caballo Dam and would consist of: (1) a 12-foot diameter steel tunnel liner inside the existing 14-foot diameter outlet conduit; (2) a bifurcation and gate control house at the existing tunnel outlet portal; (3) a hollow cone valve at the end of the bifurcation leg to the existing outlet works; (4) a 50-foot long 11.5-foot diameter penstock; (5) a powerhouse located along the right (west) side of the existing outlet works containing a generating unit having a rated capacity of 5,300-kW; (6) a tailrace; and (7) appurtenant facilities. Project energy would be transmitted over existing 115-kV transmission lines owned by Western Area Power Administration. The nearest interconnection is within about a mile of the dam.

The Applicant estimates that the average annual energy output would be 16,100,000 kWh.

Purpose of Project—Project energy would be sold to the Western Area Power Administration, public institutions or industrial users.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, economic and environmental aspects of the project, and would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $40,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it

will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to that of Sequoia Energy Corporation Project No. 3663 filed on November 4, 1980, under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 19, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made a response to this notice of application for preliminary permit for Project No. 3981. Any comments protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 400 First Street, N.W., Room 208 RB, Washington, D.C., 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6066 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project Nos. 3952-000 and 4031-000]

Enagenics and City of Peru, Illinois; Application for Preliminary Permit

February 19, 1981.

Take notice that both Enagenics and the City of Peru, Illinois (Applicants) filed on January 9, 1981, and January 19, 1981, respectively, competing applications for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Projects Nos. 3952 and 4031, respectively, both to be known as Starved Rock Lock and Dam located on the Illinois River in LaSalle County, Illinois. The applications are on file with the Commission and are available for public inspection. Correspondence with the Applicants should be directed to: Mr. Thomas H. Clarke, Jr., President of Enagenics, 1727 Q Street N:W., Washington, D.C. 20009, and Mayor Donald L. Baker, City of Peru, P.O. Box 299, Peru, Illinois, 61354. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed projects would utilize the existing U.S. Army Corps of Engineers' Starved Rock Lock and Dam. Enagenics' proposed project would consist of: (1) a proposed powerhouse containing an installed generating capacity of 8.0 MW; and (2) appurtenant facilities. The City of Peru's proposed project would consist of: (1) a proposed powerhouse containing an installed generating capacity of 9.0 MW; and (2) appurtenant facilities.

Enagenics and the City of Peru estimate that the average annual energy generation will be 58 GWh and 57.7 GWh, respectively.

Purpose of Project—Enagenics proposes to sell the energy output generated to either Peru Light Department, Central Illinois Light Company or Commonwealth Edison. The City of Peru proposes to sell the energy output to the Illinois Power Company.

Proposed Scope and Cost of Studies Under Permit—Enagenics and the City of Peru, Illinois seek issuance of a mutually exclusive preliminary permit for periods of 36 to 18 months, respectively. During this period the Applicants would accomplish hydrological, engineering, environmental, and economic feasibility studies of the project. Enagenics and the City of Peru both estimate that the cost of studies under the permit would approximate $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for preliminary permit. (A copy of these applications may be obtained directly from the Applicants.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as describe in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—These applications were filed as competing applications to the Starved Rock Lock and Dam Project No. 3568 filed on October 14, 1980, under 18 CFR (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 19, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION",

"PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to these notice of applications for preliminary permit for Projects Nos. 3952 and 4031. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6066 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3909-000]

Idaho Renewable Resources, Inc., and City of Ashton, Idaho; Application for Preliminary Permit

February 19, 1981.

Take notice that Idaho Renewable Resources, Inc. and City of Ashton, Idaho (Applicant) filed on December 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3909 to be known as the Mackay Dam Project located on Big Lost River in Custer County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jay R. Bingham, President, Idaho, Renewable Resources, Inc., P.O. Box 22208, Salt Lake City, Utah 84122. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a 3.4 mile flume installed on the south side of the existing dam; (2) an 8-foot diameter penstock; (3) a 1.35 mile, 4-kV transmission line; and (4) a powerhouse which will house two synchronous generators each having a rated capacity of 3,000 kV and two Francis Turbines each having a rated capacity of 4,000 horsepower. The Applicant estimates that the average annual energy output would be 28.8 GWh.

Purpose of Project—The total output generated by the project is to be sold to Idaho Power Company or the Falls River Cooperative.

Proposed Scope and Cost of Studies Under Permit—(1) Prepare engineering designs and estimates of cost for constructing and operating the project; (2) environmental assessment of effects the proposed project might have on the natural resources; (3) develop a plan to insure safety to personnel, animal and livestock along flume of penstock intake and tailrace; and (4) agreement made with Big Lost River Irrigation District as to the use of water for power generation. The estimated cost of this study is $105,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 24, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (b) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 24, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3909. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6067 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project Nos. 3711-000 and 3811-000]

Mitchell Energy Company, Inc. and Enagenics; Applications for Preliminary Permit

February 19, 1981.

Take notice that the Mitchell Energy Company, Inc. and ENAGENICES (Applicants), filed on November 10, 1980, and December 3, 1980, respectively, competing applications for

preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed hydroelectric projects, each to be known as the Pueblo Dam Project, FERC Projects Nos. 3711 and 3811, respectively, located on the Arkansas River in Pueblo County, Colorado. The applications are on file with the Commission and are available for public inspection. Correspondence with the Applicants should be directed to: Mr. Mitchell L. Dong, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116, for Project No. 3711, and Mr. Thomas H. Clarke, Jr., Enagenices, 1727 Q Street, NW., Washington, D.C. 20009, for Project No. 3811. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The projects proposed by the Applicants would each utilize the United States Water and Power Resources Services' Pueblo Dam and would consist of: (1) a new powerhouse with an installed capacity of about 12.3 MW utilizing the existing diversion and bypass conduits as the power conduit (penstock); and (2) other appurtenances. The Applicant estimates that the average annual energy output would be 37.2 GWh based on an available head of 93 feet.

Purpose of Projects—Project energy of Project No. 3711 would be sold to the Public Service Company of Colorado, and energy produced at Project No. 3811 would be sold to the Southern Colorado Power Company or other public or private utilities.

Proposed Scope and Costs of Studies under Permit—Each applicant seeks issuance of a preliminary permit for a period of 24 months, during which time each would perform hydraulic, construction planning, economic, environmental, historic, and recreational studies, and if the proposed project is determined feasible, prepare an application for a FERC license. Applicants estimate cost of studies under each permit would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for a preliminary permit. (A copy of each of the applications may be obtained directly from the respective Applicants). Comments should be confined to substantive issues relevant to the issuance of a permit as described in this notice. No other formal request for comments will be made. If any agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 24, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commisson's Rules. Any comments, protest, or petition to intervene must be received on or before April 24, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of applications for preliminary permit for Project No. 3711 and Project No. 3811. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6068 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3936-000]

Western Water Power, Inc.; Application for Preliminary Permit

February 19, 1981.

Take notice that Western Water Power, Inc. (Applicant) filed on January 6, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3936 to be known as Stampede Power Project located at the Department of the Interior, Water and Power Resources Service's (WPRS) Stampede Dam on Little Truckeee River in Sierra County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Timothy M. Ainslie, President, Western Water Power, Inc., 4384 Bechelli Lane, Redding, California 96002. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a 54-inch diameter, 70-foot long penstock connecting the existing outlet of the WPRS' Stampede Reservoir with; (2) a powerhouse containing a single generating unit with a rated capacity of 1,800 kW; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 13.2 million kWh.

Purpose of Project—Project energy would be sold to a public or private utility in the Northern California Area.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36 month permit to prepare a project report including preliminary designs, results of environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the WPRS and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $125,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Stampede Hydroelectric Project No. 3727 at WPRS's Stampede Dam on Little Truckee River in Sierra County, California, under 18 CFR 4.33 (1980). Anyone desiring to file a competing application must submit to the Commission, on or before March 20, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 19, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 19, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3936. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secetary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6069 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-44-000]

Adams Oil Company, Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

February 19, 1981.

Take notice that Adams Oil Company, Inc. on February 6, 1981, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before March 6, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before March 6, 1981, in accordance with the Commission's Rules of Practice and Procedure (18 CFR §§ 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6098 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3626-000]

The American Hydro Power Co.; Application for Preliminary Permit

February 18, 1981.

Take notice that The American Hydro Power Company (Applicant) filed on October 30, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3626 to be known as the Loyalhanna Project located on Loyalhanna Creek in Westmoreland County, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Peter A. McGrath, The American Hydro Power Company, Two Aldwyn Center, Villanova, Pennsylvania 19085. Any person who wishes to file a response to

this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing Corps of Engineers' Loyalhanna Dam and generator house and would consist of: (1) a new steel penstock; (2) units capable of generating 1,920 kW; (3) a 2.8-mile long transmission line; and (4) appurtenant facilities. The Applicant estimates that the average annual energy output would be 6,055,000 kWh.

Purpose of Project—It is anticipated that all power would be sold to the Pennsylvania Electric Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be between $100,000 and $120,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Hydrocorporation of Pennsylvania's application for Project No. 3308 filed on September 5, 1980, under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be recieved on or before March 18, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made a response to this notice of application for preliminary permit for Project No. 3626. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB Building, Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6144 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3844-000]

Atlantic Power Development Corp.; Application for Preliminary Permit

February 18, 1980.

Take notice that Atlantic Power Development Corporation (Applicant) filed on December 8, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3844 to be known as the Jackson Project located on the Occoquan River in Prince William County, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas F. Nolan IV, 401 C Street, N.E., Washington, D.C. 20002. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project description—The proposed run-of-the-river project would redevelop the existing deactivated Prince William County owned facility and would consist of: (1) a 22-foot high and 285-foot long concrete gravity-type dam having spillway crest elevation 150 feet m.s.l.; (2) a reservoir having a surface area of 150 acres and a storage capacity of 2,200 acre-feet at pool elevation 150 feet m.s.l.; (3) a powerhouse located on the dam's left (north) side containing two generating units having a total rated capacity of 450-kW; (4) a one-half-mile long transmission line; and (5) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 1,577,000 kWh.

Purpose of Project—Project energy would be sold to the local electric public utility.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would perform a technical feasibility study, an economic feasibility study, an environmental impact study, and develop data and drawings for inclusion in an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $64,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit

comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in ths notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 22, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 22, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 22, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the Title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable.

Any of these filings must also state that it is made in response to this notice of applications for preliminary permit for Project No. 3844. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6145 Filed 2-23-81; 8:25 am]

BILLING CODE 6450-85-M

[Project No. 2880]

Broad River Electric Cooperative; Application for License (Major)

February 19, 1981.

Take notice that the Broad River Elecric Cooperative (Applicant) filed on July 17, 1980, an application for a major license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for the Cherokee Falls Project No. 2880 located on the Broad River in Cherokee County, South Carolina. Correspondence with the Applicant should be directed to: Mr. R. C. Carroll, General Manager, Broad River Electric Cooperative, P.O. Box 790, Gaffney, South Carolina 29340.

Project Description—The Cherokee Dam Project would consist of: (1) an existing reservoir with a storage capacity of 140 acre-feet at normal power pool elevation of 535.5 feet m.s.l.; (2) an existing granite stone dam approximately 10 feet high and 1,640 feet long; (3) a proposed powerhouse with two generating units, rated at 2050 kW and 1450 kW respectively, for a total installed capacity of 3,500 kW; (4) a proposed 44 kV transmission line; and (5) appurtenant facilities. The estimated average annual output of the proposed project would be 23,650,000 MWh.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 27, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 26, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 27, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6085 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3608-000]

Byllesby Development Ltd.; Notice of Application for Preliminary Permit

February 20, 1981.

Take notice that Byllesby Development Ltd. (Applicant) filed on October 27, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3608 to be known as the Byllesby Dam located on the Cannon River in Dakota and Goodhue Counties, Minnesota. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Kenneth Lever, 6566 France Avenue South, Minneapolis, Minnesota 55435. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) an existing reservoir with a storage capacity of 24,000 acre-feet at a power pool elevation of 862.7 feet m.s.l.; (2) an existing dam consisting of a north and south section. The north section has a height varying from approximately 27 feet to 46 feet and a length of approximately 210 feet. The south section has a height varying from

approximately 26 feet to 68 feet and a length of approximately 452 feet; (3) an existing powerhouse, located between the north and south sections of the dam, with proposed new generating units having a total installed capacity of 2,000 kW. (4) proposed transmission lines; and (5) appurtenant facilities. The dam, reservoir, and some of the property within the project boundary are owned by Dakota and Goodhue Counties.

The Applicant estimates that the average annual energy output would be 6,500,000 kWh.

Purpose of Project—The power produced at the project would be sold to the Northern States Power Company.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made of the engineering, economic, and environmental feasibility of the project. In addition, ground surveys, soil borings, and concrete coring of the existing dam and powerhouse would be performed, along with preparing preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $100,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 27, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 26, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 27, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3608. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6110 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project Nos. 4022 and 4047]

Central Maine Power Co., et al.; Competing Applications for Preliminary Permit

February 18, 1981.

Take notice that Central Maine Power Company and Union Water Power Company (CMP) filed on January 16, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 4022 to be known as Upper Project located on Mooselookmeguntic Lake in Oxford and Franklin Counties, Maine. An application was also filed on January 22, 1981, by New England Hydro (New England) for the Upper Project No. 4047 at the same exact location. The applications are on file with the Commission and are available for public inspection. Correspondence with the Applicants should be directed to: Jon S. Readnour, Central Maine Power Company, Edison Drive, Augusta, Maine 04336 and Mr. Andre Jaeger, 3 Great Pasture Road, West Redding, Connecticut 06896. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project No. 4022 would consist of (1) an existing 200-foot long, 26.5-foot high rock-filled crib dam; (2) Mooselookmeguntic Lake with a surface area of 15,741 acres and a storage capacity of 192,039 acre-feet; (3) a new powerhouse with a single turbine-generator with a rated capacity of 1.5 MW; (4) a transmission line and; (5) appurtenant facilities. CMP estimates that the average annual energy output would be 7,000,000 kWh. CMP owns the dam and flowage rights.

The proposed Project No. 4047 would utilize the same existing dam and reservoir and would include a new powerhouse also located immediately below the dam containing three turbine-generators with a total rated capacity of 4.8 MW.

New England estimates that the average annual energy output would be 9,847,000 kWh.

Purpose of Project— Energy produced at Project No. 4022 would be utilized by Central Maine Power Company for distribution to its customers. Energy produced at Project No. 4047 by New England would be sold to Central Maine Power Company.

Proposed Scope and Cost of Studies Under Permit—The work proposed under this preliminary permit would

include economic evaluation, engineering plans, and an environmental assessment. Based on results of these studies, Applicants would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. CMP estimates that the work to be performed under this preliminary permit would cost $100,000. New England estimates that the work to be performed under this preliminary permit would be $48,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for preliminary permit. (A copy of these applications may be obtained directly for the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as describe in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 24, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 24, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Projects Nos. 4022 and 4047. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6164 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3751-000]

City of Guttenberg; Application for Preliminary Permit

February 19, 1981.

Take notice that the City of Guttenberg (Applicant) filed on November 18, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3751 to be known as Mississippi River Lock and Dam No. 10 located at the U.S. Army Corps of Engineers' Mississippi River Lock and Dam No. 10, a navigation project, on the Mississippi River near Guttenberg, in Clayton County, Iowa. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas LeBak, City Manager, City of Guttenberg, Iowa 52052. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' lock and dam. Project No. 3751 would consist of: (1) a proposed powerhouse; (2) a proposed transmission line interconnected at the line side of a substation owned by Interstate Power Company; (3) proposed generating units with a total estimated installed capacity of 8.2 MW; and (4) appurtenant facilities. The applicant estimates that the average annual energy output would be 33,600,000 kWh.

Purpose of Project—Energy produced by the proposed project would be used by the City of Guttenberg and the Interstate Power Company of Dubuque, Iowa.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a twelve month permit to prepare a definite project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies and soil/and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State, and local agencies is estimated to be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 3, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 2, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 3, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3751. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6086 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3876-000]

City of South Bend, Indiana; Notice of Application for Preliminary Permit

February 18, 1981.

Take notice that the City of South Bend, Indiana (Applicant) filed on December 16, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3876 to be known as South Bend Water Power Project located at the Indiana and Michigan Electric Company dam on the St. Joseph River in St. Joseph County, South Bend, Indiana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Steven F. Crompton, Division of Community Development, 1440 County-City Building, South Bend, Indiana. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an Indiana and Michigan Electric Company dam. Project No. 3876 would consist of (1) an existing elbow-shaped timber crib with concrete cap dam and overflow weir with a total length of approximately 435 feet and height of approximately 12 feet. (2) an existing reservoir of approximately 4.25 miles in length with a storage area of 160 acres and a storage capacity of 1,100 acre-feet at pool elevation of 679.0 feet m.s.l.; (3) a proposed powerhouse with a generating capacity of 2400 kW; (4) a proposed penstock; (5) proposed transmission lines; and (5) appurtenant facilities. The proposed project does not affect any Federal lands. The Applicant estimates that the average annual output would be 21,00,000 kWh.

Purpose of Project—The Applicant proposes to sell the generated output of energy to Indiana and Michigan Electric Company.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the legal ownership of lands, engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determind, along with consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $50,000.00

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, and market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 1, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 1, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the a proceeding. To become a party, or to participate in any hearing, a

person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be recieved on or before April 1, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3876. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, on petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6128 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-58-000]

City of Tallahassee, Florida; Notice of Application for Exemption

February 19, 1981.

Take notice that the City of Tallahassee, on February 2, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file, on or before June 30, 1982, information on the costs of providing electric service as specified in Sections 290.403 through 290.406 requiring reporting of load data for certain customer groups.

In its application for exemption, the City of Tallahassee states that it should not be required to file the specified data by June 1982 for the following reasons:

The City of Tallahassee is one of the smaller municipal utilities covered by the Public Utility Regulatory Policies Act of 1978 (PURPA) and as such has extremely limited resources financially and in terms of personnel for compliance with the regulations. While the utility intends to comply with PURPA Section 133 regulations, the utility finds it desirable to comply in the most efficient manner possible.

The City of Tallahassee presently intends to install a two way power line communications system to collect load research data required by Section 290.403 through 290.406 because it is comparable in capital cost to more conventional alternatives for data collection, and also gives capabilities for load management and distribution automation functions. This will also enable the City of Tallahassee to comply with the requirements of the Florida Energy Efficiency and Conservation Act.

The City of Tallahassee plans to issue a request for proposals for such a system within the next four months. The utility does not expect that such a system could be operational until the last quarter of 1981. It will thus be impossible to collect and process an entire year of load research data by major customer class of the June 1982 filing.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45-day period such person must also serve a copy of such comments on the City of Tallahassee, Attention: A. K. Sharma, System Planning Engineer, Electric Department, City Hall, Tallahassee, Florida 32301.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6111 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-174-000]

Colorado Interstate Gas Co.; Notice of Application

February 19, 1981

Take notice that on February 3, 1981, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP81-174-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited-term sale of natural gas to Trans Louisiana Gas Company (Trans La), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it entered into a gas sales agreement with Central Louisiana Electric Company, Inc. (CLECO) dated November 19, 1980. It is further asserted that as of December 1, 1980, CLECO transferred its gas properties to Trans La.

Applicant herein requests authorization for the limited-term sale of up to 150,000 Mcf of surplus natural gas per day to Trans La. Applicant states that such sale would be made from its system supply at a sale price per Mcf equal to the effective Rate Schedule EX-1 rate in Applicant's FERC Gas Tariff, Original Volume No. 1, which rate is subject to change. It is asserted the rate is presently 303.31 cents per Mcf.

Applicant anticipates that gas currently considered surplus would be required to serve existing customers in the future, therefore, it requests authorization to make the subject sale to Trans La for a limited three year term to commence approximately May 1, 1981.

Applicant states it would sell gas to Trans La on a best-efforts basis subject to Applicant's storage and existing customer requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 12, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held

without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6112 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER76-320]

Connecticut Light and Power Co.; Filing

February 19, 1981.

The filing company submits the following:

Take notice that on January 21, 1981, Connecticut Light and Power Company (CL&P) submitted for filing a revised summary cost of service and revised tariff sheets for CL&P's R-3 rate. Said filings are being made pursuant to the Commission's order in Opinion No. 103, issued in the above-referenced proceeding.

A copy of this filing has been served upon the parties to this proceeding.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 16, 1981. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6009 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2338]

Consolidated Edison Company of New York, Inc.; Application for Surrender of Major License

February 19, 1981.

Take notice that an application was filed on January 14, 1981, under the Federal Power Act, 16 U.S.C. § 791(a)—825(r), by the Consolidated Edison Company of New York, Inc., for surrender of major license for the Cornwall Project. The proposed project is located on the Hudson River in Orange County Ney York. Except for some minor preliminary clearing, grading and excavation, no construction work at the project was ever performed.

A copy of the application is available for inspection at the FERC's offices at 825 North Capitol Street, Washington, D.C., and at 26 Federal Plaza, Room 2207, New York, New York. Correspondence with the Applicant on this matter should be directed to: Garrett E. Austin, Assistant General Counsel, Consolidated Edison Company of New York, Inc., 4 Irving Place, New York, New York 10003.

Project Description—As licensed, the proposed Cornwall Project would consist of: (1) an upper reservoir; (2) a tunnel leading from the reservoir to a pumping-generating station at the riverside; (3) a 2000-MW pumping-generating station; (4) primary transmission lines and sub-stations; and (5) recreational facilities.

The Applicant proposes to surrender its license for the Cornwall Project, as part of a settlement agreement it has reached with the EPA and other parties involving the need for the construction of cooling towers at power plants along the Hudson River. It further proposes to convey the land it acquired in connection with that project to the Palisades Interstate Park Commission as a donation and for use exclusively as a public park. Certain parcels may be conveyed to the Village of Cornwall for like purposes.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 3, 1981.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6087 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project Nos. 3642-000]

Continental Hydro Corp.; Application for Preliminary Permit

February 18, 1981.

Take notice that Continental Hydro Corporation (Applicant) filed on November 3, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3642 to be known as Grey Reef Dam located at the Water and Power Resources Service Gray Reef Dam on the North Platte River in the County of Natrona, Alcova, Wyoming. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, President, Continental Hydro Corporation, 141 Milk Street, Suite 1143, Boston, MA 02109. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing Water and Power Resources Service dam. Project No. 3642 would consist of: (1) a proposed 12-foot diameter siphon approximately 300 feet long which will run from the reservoir over the crest of the dam and to the powerhouse; (2) a proposed powerhouse containing three to five generating units to be located on the eastern side of the stilling basin with an approximate capacity of 10 MW; and (3) appurtenant facilities.

The proposed project is located on Federal land.

The Applicant estimates that the average annual energy output would be 30,000,000 kWh.

Purpose of Project—The Applicant proposes to sell the output of energy generated to the Water and Power Resources Service.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months. Within the 36 months time frame the Applicant proposes to conduct data aquisition and analysis, technical studies, potential energy production and capacity evaluations, project layout and design, construction options, environmental,

recreational, and economic examinations.

The Applicant estmates the cost of the proposed examinations would be $60,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 22, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about the application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3642 comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6147 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3890-000]

Cook Electric Co.; Application for Preliminary Permit

February 19, 1981.

Take notice that Cook Electric Company (Applicant) filed on December 22, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3890 to be known as the Agency Valley Project located on the North Fork Malheur River in Malheur County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Warren P. Chapman, Cook Electric Company, P.O. Box 1071, Twin Falls, Idaho 83301. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a penstock installed in the existing outlet tunnel of the Water and Power Resources Service's Agency Valley Dam; (2) a powerhouse with a capacity of 900 kW; and (3) associated electrical equipment. The Applicant estimates that the average annual energy output would be 3,000 MWh.

Purpose of Project—Applicant states that the energy produced by the project would be sold.

Proposed Scope and Cost of Studies under Permit—Applicant states that it would study water flow records, the condition of the outlet tunnel and valves, power transmission plans, environmental impacts, and project costs.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consisent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Cascade Waterpower Development Corporation's Project No. 3445, under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for

protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 27, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3890. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6098 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-158-000]

Delhi Gas Pipeline Corp.; Sugar Bowl Gas Corp.; Petition for Declaratory Order

February 18, 1981.

Take notice that on January 13, 1981, Delhi Gas Pipeline Corporation (Delhi), Fidelity Union Tower, Dallas, Texas 75201, and Sugar Bowl Gas Corporation (Sugar Bowl), 1200 Milam, Suite 3310, Houston, Texas 77001, filed in Docket No. CP81-158-000 a joint petition pursuant to § 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for an order declaring that the transportation of natural gas by an interstate pipeline on behalf of an intrastate pipeline pursuant to Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA) does not render the intrastate pipeline jurisdictional if the natural gas was transported across state lines and subsequently resold, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Delhi, an interstate pipeline company engaged in the transportation and sale of natural gas primarily in Texas and Oklahoma, and Sugar Bowl, an intrastate pipeline company engaged in the transportation and sale of natural gas exclusively in Louisiana, state that they have entered into a letter agreement whereby Delhi would sell any surplus gas it has from time to time in Oklahoma to Sugar Bowl in Louisiana. It is stated that Delhi would construct and operate intrastate pipeline facilities of its own in Louisiana and that it would employ one or more interstate pipeline companies to act as intermediaries on its behalf to move the gas from Delhi's Oklahoma facilities to Delhi in Louisiana by displacement exchange.

It is stated that Delhi would charge Sugar Bowl Delhi's monthly weighted average acquisition cost of the gas purchased on Delhi's Oklahoma systems from which the surplus gas is sold plus a gathering and transportation fee of 29.5 cents per million Btu adjusted periodically and that Sugar Bowl would reimburse Delhi for the actual fee charged Delhi by the interstate pipelines for transportation of the gas from Oklahoma to Louisiana.

Petitioners state that insulating the intrastate pipeline from any jurisdictional consequences would not make the transportation and sale of gas free from any regulatory oversight to the detriment of its customers because transportation on behalf of an intrastate pipeline is subject to Part 284, Subpart B of the Commission's Regulations and Section 311 of the NGPA. Furthermore, it is stated that the Commission would require the notification of the state authorities in Oklahoma of the proposed transaction in order to enable it to monitor the sale and transportation and protect the intrastate customers. Moreover, it is stated that Louisiana, the receiving state, has broad statutory and regulatory powers over the transportation and sale of intrastate gas and the setting of its price. Petitioner therefore requests a declaratory order declaring that the transportation of natural gas by an interstate pipeline on behalf of an intrastate pipeline pursuant to Section 311(a) of the NGPA does not render the intrastate pipeline jurisdictional if the natural gas was transported across state lines and subsequently resold.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6148 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3891-000]

East Fork Irrigation District; Notice of Application for Preliminary Permit

February 20, 1981.

Take notice that East Fork Irrigation District (Applicant) filed on December 23, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3891 to be known as East Fork Irrigation District Hydroelectric Project located on East Fork Hood River in Hood River County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Ron J. Reinhart, Superintendent, East Fork Irrigation District, P.O. Box 162, Odell, Oregon 97540. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) the existing diversion dam across the East Fork Hood River (to be rehabilitated); (2) the existing 6.7-mile long East Fork Irrigation District Main Canal leading to; (3) the existing 4.8-mile long East Fork Irrigation District Dukes Valley Canal; (4) two proposed one-mile long penstocks carrying water, from points one mile upstream of the end of each canal, to: (5) two proposed

powerhouses, one at the end of each canal, with total installed capacity of 7.8 MW; and (6) appurtenant facilities. The Applicant estimates that the average annual output would be 38.5 million kWh.

Purpose of Project—Project energy would be sold to a private utility.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a project report including preliminary designs, results of environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $79,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 28, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 29, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 28, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3891. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6113 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3774-000; Project No. 3836-000]

East Kentucky Power, Mitchell Energy Co., Inc.; Notice of Applications for Preliminary Permits

February 20, 1981.

Take notice that East Kentucky Power (EKP) and Mitchell Energy Company, Inc. (MECI) (Applicants) filed on November 21, 1980 and December 5, 1980, respectively, competing applications for preliminary permits [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Projects Nos. 3774 and 3836 respectively to be known as the Taylorsville Lock and Dam Project located at the U.S. Army Corps of Engineers' Taylorsville Dam and Lake, a flood control project, on the Salt River in Spencer County, Taylorsville, Kentucky. The applications are on file with the Commission and are available for public inspection. Correspondence with EKP should be directed to: Mr. Richard Breckenkamp, East Kentucky Power Cooperative, Inc., P.O. Box 707, Lexington Road, Winchester, Kentucky 40391. Correspondence with MECI should be directed to: Mr. Michell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Descriptions.—Both of the proposed projects would utilize a U.S. Army Corps of Engineers' Dam. EKP's proposed project would consist of: (1) a proposed reinforced concrete powerhouse containing two units with a total estimated installed capacity of 8 MW; (2) a proposed 1,900-foot long concrete lined power tunnel; (3) a proposed concrete intake; (4) a proposed 2,350-foot long riprap lined tailrace channel to convey water from the proposed powerhouse into the river; (5) a proposed 4 mile transmission line to connect to an existing 69 kV transmission line owned by Kentucky Utilities Company; and (6) appurtenant facilities. All of the proposed structures would be located on the right bank of the river. EKP estimates that the average annual energy output would be 12,000,000 kWh.

MECI's proposed project would consist of: (1) a proposed powerhouse operated as a run-of-river installation, utilizing a head of approximately 55 feet and having a total estimated installed capacity of 17 MW; (2) proposed transmission lines; and (3) appurtenant facilities. The proposed powerhouse will be built just below the existing dam structure. MECI estimates that the total estimated annual energy output is 24,000,000 kWh.

Purpose of Project.—EKP intends to utilize the generated output of energy within his own system. MECI intends to sell the generated output of energy to

Louisville Gas and Electric Company or another local utility.

Proposed Scope and Cost of Studies Under Permit.—The Applicants seek issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. EKP estimates that the cost of the studies would be between $150,000 and $300,000. MECI estimates that the cost of the studies would be $50,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before April 27, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 26, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 27, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Projects Nos. 3774 and 3836. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6114 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-539-001]

East Tennessee Natural Gas Co.; Notice of Amendment to Application

February 19, 1981.

Take notice that on January 16, 1981, East Tennessee Natural Gas Company (Applicant), P.O. Box 10245, Knoxville, Tennessee 37919, filed in Docket No. CP80-539-001 an amendment to its application in the instant docket filed pursuant to Section 7(c) of the Natural Gas Act so as to reflect a change in its list of customers receiving a proposed storage service, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that in its application filed September 9, 1980, in the instant docket it sought authorization to render storage service to eleven of its customers for the period of August 1, 1980, through April 2, 1981. It is further stated that Applicant received temporary certificate authorization for the proposed service on December 22, 1980. However, it is stated that subsequent to the filing of the pending application one of the customers, Roanoke Gas Company, chose not to contract for any extension of its service. Applicant states that in an October 30, 1980, letter it made the relinquished service available to all of its other customers. Applicant states that the City Fayetteville, the City Lewisburg and United Cities Gas Company chose to increase their participation and that Knoxville Utilities Board and Powell Clinch Utility District were added as new customers. Additionally, it is stated, two customers, Colonial Natural Gas Company and Volunteer Natural Gas Company, merged to form Tennessee-Virginia Energy Corporation.

Applicant herein proposes to amend its customer list to reflect the above described changes. It is stated that the revised list of customers for whom the storage service would be rendered is as follows:

Customer	Volumes	
	Original	Revised
Chattanooga Gas Co	200,000	200,000
Colonial Natural Gas Co	100,000	0
City of Fayetteville	3,000	5,000
City of Lewisburg	3,000	6,000
City of Loudon	2,000	2,000
Hawkins County	5,000	5,000
Roanoke Gas Co	100,000	0
Sevier County	12,000	12,000
City of Sweetwater	4,000	4,000
United Cities Gas Co	50,000	85,000
Volunteer Natural Gas Co	21,000	0
Powell Clinch Utility District	0	10,000
Knoxville Utilities Board	0	50,000
Tenn-Virginia Energy Corp	0	121,000
Total	500,000	500,000

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 12, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the

Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6115 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3990-000]

Enagenics; Application for Preliminary Permit

February 18, 1981.

Take notice that ENAGENICS (Applicant) filed on January 13, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3990 to be known as Paint Creek Dam Hydroelectric Project located on Paint Creek in Highland County, Ohio. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, ENAGENICS, 1727 Q Street, NW., Washington, D.C. 20009. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Paint Creek Dam and would consist of: (1) a powerhouse containing a single generating unit with a rated capacity of 6.0 MW; (2) existing transmission lines; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 11.3 GWh.

Purpose of Project—The energy generated by the proposed project would be sold to either the Columbus and Southern Electric Company or other local public or industrial users.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates the cost of the work to be performed under the preliminary permit would be $40,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Mitchell Energy Company, Inc.'s Project No. 3681 filed on November 5, 1980, under 18 CFR 4.33 (1980). Anyone desiring to file a competing application must submit to the Commission, on or before February 25, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 27, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before February 25, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3990. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6100 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3975-000]

Enagenics; Notice of Application for Preliminary Permit

February 20, 1981.

Take notice that ENAGENICS (Applicant) filed on January 12, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3975 to be known as Deschutes Main Canal, Mile 45 Hydroelectric Project located on the U.S. Department of the Interior, Water and Power Resources Service's (WPRS) North Unit Main Canal in Jefferson County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, ENAGENICS, 1725

Q Street, N.W., Washington, D.C. 20009. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a gated intake structure within the North Unit Canal at Station 2376+70; (2) a 1,550-foot long, 80-inch diameter penstock leading to; (c) a powerhouse on the canal containing a single generating unit with a rated capacity of 4,000 kW; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 12.2 million kWh.

Purpose of Project—Project energy would be sold to the Bonneville Power Administration.

Proposed Scope and Cost of Studies Under Permit—The Applicant has requested a 36-month permit to prepare a project report including preliminary designs, results of environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the WPRS and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $35,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Deschutes Main Canal, Mile 45 Hydroelectric Project No. 3794 on WPRS' North Unit Canal in Jefferson County, Oregon, under 18 CFR 4.33 (1980). Anyone desiring to file a competing application must submit to the Commission, on or before April 6, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 5, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 20, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3975. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6116 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3962-000]

Enagenics; Notice of Application for Preliminary Project

February 20, 1981.

Take notice that Enagenices—a proprietorship (Applicant) filed on January 12, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3962 to be known as Deschutes Main Canal, Mile 46 Hydroelectric Project located on the U.S. Department of the Interior, Water and Power Resources Service's (WPRS) North Unit Main Canal in Jefferson County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, ENAGENICS, 1727 Q Street, N.W., Washington, D.C. 20009. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a gated intake structure within the North Unit Canal at Station 2481 + 30; (2) a 650-foot long, 84-inch diameter penstock leading to; (3) a powerhouse on the canal containing a single genera-unit with a rated capacity of 3,400 kW; and (4) appurtenant facilities. The Applicant estimates that the average annual energy output would be 10.2 million kWh.

Purpose of Project—Project energy would be sold to the Bonneville Power Administration.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a project report including preliminary designs, results of environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, containing agreements with the WPRS and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and

preparing designs is estimated by the Applicant to be $350,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to The Mitchell Energy Company, Inc.'s Project No. 3796, under 18 C.F.R. 4.33 (1980). Anyone desiring to file a competing application must submit to the Commission, on or before, either April 6, 1981, the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 5, 1981. A notice of intent must conform with the requirements of 18 C.FR. § 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before March 20, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3962. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6117 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3977-000]

Enagenics; Application for Preliminary Permit

February 18, 1981.

Take notice that Enagenics (Applicant) filed on January 12, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3977 to be known as Kentucky River Lock and Dam No. 4 to be located at the U.S. Army Corps of Engineers' Kentucky River Lock and Dam No. 4, a navigation and flood control project on the Kentucky River in the city limits of Frankfort, Franklin County, Kentucky. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, Enagenics, 1727 Q Street, N.W., Washington, D.C. 20009. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and lock. Project No. 3977 would consist of (1) a proposed powerhouse with 4 generating units having an estimated capacity of 3.7 MW; (2) a proposed transmission line to interconnect with existing 138 kV lines owned by the Kentucky Utilities Company; and (3) appurtenant facilities. The project is located on Federal lands.

The Applicant estimates that the average annual energy output would be 26.3 GWh.

Purpose of Project—Energy produced at the proposed project would be sold to Kentucky Utilities Company.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36 month permit to prepare a definitive project report, including formulation of the most economical scheme to generate hydroelectrical energy. Studies will include determination of size and configuration of generating equipment, field investigations including ground surveys and soundings, soil borings in areas proximate to the existing dam and concrete borings of the existing dam. The cost of the aforementioned activities with obtaining agreements with Federal, State, and local agencies is estimated to be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to the Dam Four

Development Ltd. Project No. 3675 filed on November 5, 1980, under 18 CFR 4.33 (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 18, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3977. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations, to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6149 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project Nos. 176-003 and-004]

Escondido Mutual Water Co; Applications for Amendment of License

February 19, 1981.

Take notice that Escondido Mutual Water Company (Applicant) filed on November 17, 1980, applications for amendment of its license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for the Escondido Project No. 176. The project is located on Escondido Creek in San Diego County, California. Correspondence with the Applicant should be directed to: Mr. Richard S. Harper, Secretary, Escondido Mutual Water Company, 620 North Ash Street, Escondido, California 92027.

Project Description—In the first application, Applicant proposes to reconstruct the Bear Valley Powerhouse which was destroyed by a flood on March 6, 1980. The reconstructed powerhouse would restore the original power generating capacity developed from the incidental release of water from Lake Wohlford to meet consumer water demands. The powerhouse would contain a single 700-kW generating unit with provisions for a second unit.

In the second application, Applicant proposes further to increase the capacity of the Bear Valley Powerhouse by installing a second 700-kW generating unit. The proposed second unit would also generate power from the incidental release of water from Lake Wohlford to meet consumer water demands. The second unit would be connected to a 26-inch diameter penstock [owned by Vista Irrigation District] and would replace an energy dissipator which currently bypases the powerhouse.

Applicant estimates that the average annual energy output of the reconstructed powerhouse would be 4,200 MWh with an additional 1,400 MWh of output with the installation of the second generating unit.

Purpose of Project—Project Power would be sold and distributed to consumers in the San Diego area.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, The Endangered Species Act, the National Historic Preservation Act, The Historical and Archeological Preservation Act, The National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. Agencies may obtain additional information on the proposals from the applicant at the above address. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 of § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 3, 1981. Comments and other filings should identify which application is being addressed and be confined to substantive issues relevant to the amendment of license. A copy of the applications may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have none. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 81-6080 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-169-000]

Florida Gas Transmission Co., Notice of Application

February 19, 1981.

Take notice that on January 30, 1981, Florida Gas transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP81-169-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the relocation of a 1,000 horsepower turbine-driven centrifugal compressor from Applicant's Avon Park Lateral to a point on Applicant's Sarasota Lateral, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to relocate its 1,000 horsepower turbine-driven centrifugal compressor from its present location on Applicant's Avon Park Lateral to Applicant's Sarasota Lateral all in Polk County, Florida. It is stated that due to a loss of load at the present location the compressor is no longer necessary.

Applicant contends that absent the relocation, it would have to loop its existing pipeline with approximately eleven miles of 12-inch pipeline and six miles of 10-inch pipeline to provide efficient and reliable service to its customers served by the Sarasota Lateral.

Applicant states that the estimated relocation costs of $387,100 would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 12, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6118 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project 3820-000]

General Electric Co.; Notice of Application for Short-Form License (Minor)

February 20, 1981.

Take notice that the General Electric Company (Applicant) filed on December 3, 1980, an application for license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for construction and operation of a water power project to be known as the Somersworth Project No. 3820. The project would be located on the Salmon Falls River in Strafford County, N.H., and York County, Maine. Correspondence with the Applicant should be directed to: W.B. Lynn, General Manager, General Electric Co., 130 Main Street, Somersworth, N.H. 03878.

Project Description—The proposed project would consist of the following existing works: (1) a stone gravity structure known as the Stone Dam, having a length of 400 feet and a height of 16.5 feet; (2) three intake gates diverting water to (3) a power canal having a length of approximately 1,600 feet and leading to (4) a penstock having a length of approximately 600 feet; (5) a powerhouse to be rehabilitated to contain a new turbine-generator having a total rated capacity of 1,500 kW; and (6) appurtenant works. The estimated average annual generation is 7,000,000 kWh.

Purpose of Project—Project energy would be used by the Applicant for industrial purposes.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Coments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 24, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than August 24, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 24, 1981. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6119 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-14-000]

Huntway Refining Co.; Filing of Petition for Review Under 42 U.S.C. 7194

February 19, 1981.

Take notice that Huntway Refining Company on October 27, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary

may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before March 6, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before March 6, 1981, in accordance with the Commission's Rules of Practice and Procedure (18 CFR §§ 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Avenue S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6102 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-27-000]

Iowa Public Service Co.; Application

February 19, 1981.

Take notice that on February 10, 1981, Iowa Public Service Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of (a) up to 300,000 shares of Common Stock (par value $5 per share) in connection with the Company's Dividend Reinvestment and Stock Purchase Plan, as amended and (b) up to 150,000 shares of Common Stock (par value $5 per share) in connection with the operation of the Employees' Stock Ownership Plan of Iowa Public Service Company and Participating Subsidiaries, as amended, and to related Employees' Stock Ownership Trust of Iowa Public Service Company and Participating Subsidiaries, as amended.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 10, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6103 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3917-000]

Kansas Electric Power Cooperative, Inc.; Notice of Application for Preliminary Permit

February 20, 1981.

Take notice that Kansas Electric Power Cooperative, Inc. (Applicant) filed on December 31, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16, U.S.C. §§ 791(a)–825(r)] for the proposed Kanopolis Dam Project, FERC No. 3917, to be located at the U. S. Army Corps of Engineers' Kanopolis Dam and Reservoir, a flood control project, on the Smoky Hill River near Ellsworth, Ellsworht County, Kansas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James V. Williamson, R. W. Beck and Associates, 200 Tower Building, 7th Avenue at Olive Way, Seattle, Washington 98101. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' Kanopolis dam and reservoir. Project No. 3917 would consist of: (1) a proposed waterway formed by a steel liner installed in the existing outlet works conduit; (2) a proposed wye from the existing conduit at or near the entrance to the stilling basin; (3) a proposed shutoff valve in the branch extending to the stilling basin to permit flood control discharges; (4) a proposed penstock from the wye branch to a minifold; (5) a proposed powerhouse located on the east bank of the river; (6) transmission lines; (7) tailrace channel which would discharge into the existing outlets works channel; and (8) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 4 MW and the annual energy output to be 10.3 GWh.

Purpose of Project—The energy generated by the proposed project will be utilized within KEPCO's system to displace power which would otherwise be purchased from other utilities.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal state and local agencies is estimated to be from $295,000 to $320,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the Market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local ageancies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistant with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Continental Hydro Project, Project No. 3397 on the Kanopolis Dam Project in Ellsworth, Kansas, under 18 C.F.R. 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirments of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980. Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a

protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 20, 1981

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3917. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6120 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3763-000]

Long Lake Energy Corp.; Application for Preliminary Permit

February 19, 1981.

Take notice that Long Lake Energy Corporation (Applicant) filed on November 18, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3763 to be known as the Diana Energy Mill located on the Oswegatchie River, West Branch, in Lewis County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Paul J. Elston and Mr. Donald E. Hamer, 330 Madison Avenue, 7th Floor, New York, New York 10017. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would redevelop the retired St. Regis Paper Company facility deeded to the Village of Harrisville and would consist of: (1) the existing 33-foot high and 380-foot long concrete gravity dam with an 82-foot long spillway section; (2) a small reservoir having a gross storage capacity of 70 acre-feet at spillway crest elevation 790 U.S.G.S.; (3) the existing outlet and control structures; (4) a 625-foot long 12-foot diameter riveted steel penstock along the right (north) bank, a 200-foot section having been removed; (5) a concrete and stone powerhouse containing a generating unit rated at 800 kW and four mechanical water wheels; (6) a short tailrace; (7) a switchyard; (8) the existing 150-foot long 25.5 kV transmission line; and (9) appurtenant facilities. Applicant would restore the existing facility and redevelop the powerhouse to a possible total installed capacity of 1,300 kW. The Applicant estimates that the average annual energy output would be 5,500,000 kWh.

Purpose of Project—Project Energy would be sold to Niagara Mohawk Power Corporation.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, and environmental aspects of the project. Depending upon the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $130,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 24, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 23, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 24, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3763. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent

to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6000 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3722-000]

Bruce J. Massey; Application for Preliminary Permit

February 19, 1981.

Take notice that Bruce J. Massey (Applicant) filed on November 14, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3722 to be known as Massey Hydroelectric Power Plant located on the Lower Little River in Alexander County, Millersville, North Carolina. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Bruce J. Massey, Route 1, Box 249, Hiddenite, North Carolina 28636. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) an existing concrete ogee dam, having a length of 210 feet and a height varying from 18 feet to 23 feet; (2) an existing 58 feet long canal; (3) an existing concrete powerhouse straddling the canal and housing one generating unit with an estimated capacity of 129 kW; (4) an existing reservoir with an estimated surface area of 6 acres and a storage capacity of approximately 266 acre-feet at a normal pool elevation of 890 feet m.s.l.; (5) a proposed 7.2 kV transmission line approximately six tenth of a mile long and interconnecting with Crescent Electric Membership Corporation distribution facilities; and (6) appurtenant facilities. The proposed project will not effect lands of the United States. The Applicant estimates that the average annual energy output would be 963,600 kWh.

Purpose of Project—The Applicant intends to sell the output of generated energy to the Crescent Electric Membership Corporation.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a 36 month preliminary permit. Within the 36 months time frame the Applicant intends to conduct several preliminary studies regarding the technical, economic and financial feasibility. Detailed studies will be performed regarding stream flow, cost, availability and design of equipment repairs and replacements. The Applicant estimates the cost of the proposed studies is $5,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 27, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 26, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 27, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTESTS", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3722. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6001 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3931-000]

Milton-Freewater Light & Power and Oregon Public Power Agency; Application for Preliminary Permit

February 17, 1981.

Take notice that Milton-Freewater Light & Power and Oregon Public Power Agency (Applicants) filed on January 5, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3931 to be known as South Fork Walla Walla River Project located on South Fork Walla Walla River in Umatilla County, Oregon. The application is on file with the Commission and is available for public

inspection. Correspondence with the Applicants should be directed to: George McRae, Milton-Freewater Light & Power City Hall—Box 6, Milton-Freewater, Oregon 97862. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) an intake structure; (2) a 53,000-foot long penstock; and (3) a powerhouse with a total installed capacity of 9,300 kW.

The Applicants estimate that the average annual energy output would be 54,600 MWh.

Purpose of Project—Power produced by the project would be used to meet the requirements of Milton-Freewater Light & Power and the other utilities of the Oregon Public Power Agency.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preliminary engineering, and a study of environmental impacts. Based on the results of the work, Applicants would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicants estimate that the cost of the studies would be $60,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 22, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 22, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 22, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3931. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6101 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3693-0000]

Mitchell Energy Co., Inc.; Application for Preliminary Permit

February 20, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant filed on November 7, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3693 to be known as Gibson Dam Hydroelectric Project located at the United States Water and Power Resources Service's Gibson Dam on the Sun River in Teton County, Gilman, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize a United States Water and Power Resources Service's dam. Project No. 3693 would consist of: (1) a proposed powerhouse located just below the dam on the north bank of the Sun River, and having an estimated generating capacity of 11 MW; (2) proposed transmission lines; and (3) appurtenant facilities. The proposed project is located on Federal lands.

The Applicant estimates that the average annual energy output would be 41,000,000.

Purpose of Project—Applicant plans to sell the generated output of energy to the Montana Power Company or local utility.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a 36 month time period. Within the 36 month time period, the Applicant intends to conduct engineering, environmental, and legal examinations. The total cost of the proposed examinations is $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of

application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 27, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 26, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 27, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3693. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6104 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-269-000]

Montana Power Co.; Filing

February 19, 1981.

The filing company submits the following:

Take notice that on February 11, 1981, Montana Power Company (MPC) submitted for filing a Summary of Sales, made under MPC's Electric Tariff M-1, for the month of December 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 13, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6105 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3770-000]

Mitchell Energy Company, Inc.; Notice of Application for Preliminary Permit

February 20, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 21, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3770 to be known as Menasha Lock and Dam Hydroelectric Project located at the U.S. Army Corps of Engineers' Menasha Lock and Dam on the Fox River, Calumet County, and Winnebago County, Menasha, Wisconsin. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam. Project No. 3770 would consist of: (1) a proposed powerhouse located just below the existing dam structure and having an estimated generating capacity of approximately 2.2 MW; (2) proposed transmission lines; and (3) appurtenant facilities. The proposed project is located on Federal lands. The Applicant estimates that the average annual energy output would be 11,000,000, kWh.

Purpose of Project—Applicant plans to sell the generated output of energy to the Wisconsin Electric Power Company or another local utility.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a 36 month time period. Within the 36 month time period the Applicant intends to conduct engineering, environmental, and legal examinations. The total cost of the proposed examinations is $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 27, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 26, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 C.F.R. § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or §1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 27, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", OR "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3770. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant Specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary

[FR Doc. 81-6121 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3749-000]

Mitchell Energy Co., Inc.; Notice of Application for Preliminary Permit

February 20, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 17, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3749 to be known as Yellowtail Afterbay Dam Hydro-Electric Project located at the Water and Power Resources Service's Yellowtail Afterbay Dam on the Bighorn River in Big Horn County, Fort Smith, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02110. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing Water and Power Resources Service's dam. Project No. 3749 would consist of: (1) a proposed powerhouse to be located just below the existing dam structure, having an estimated generating capacity of 10 MW; (2) proposed transmission lines; and (3) appurtenant facilities. The proposed project is located on Federal lands.

The Applicant estimates that the average annual energy output would be 43,800,000 kWh.

Purpose of Project—Applicant plans to sell the generated output of energy to the Montana Power Company or other local utility.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a 36 month time period. Within the 36 month time period, the Applicant intends to conduct engineering, environmental, and legal examinations. The total cost of the proposed examinations is estimated to be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 28, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 29, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate

action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 28, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3749. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6122 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3772-000]

Mitchell Energy Co., Inc.; Notice of Application for Preliminary Permit

February 18, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 21, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3772 to be known as Little Kaukauna Lock and Dam Hydroelectric Project located at the U.S. Army Corps of of Engineers' Little Kaukauna Lock and Dam on the Fox River in Brown County, Kaukauna, Wisconsin. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam. Project No. 3772 would consist of: (1) a proposed powerhouse located just below the existing dam structure and having an estimated generating capacity of approximately 2.5 MW; (2) proposed transmission lines; and (3) appurtenant facilities. The proposed project is located on Federal lands. The Applicant estimates that the average annual energy output would be 13,092,000 kWh.

Purpose of Project—Applicant plans to sell the generated output of energy to the Wisconsin Electric Power Company or another local utility.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a 36 month time period. Within the 36 month time period the Applicant intends to conduct engineering, environmental, and legal examinations. The total cost of the proposed examinations is $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 22, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 22, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 22, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent; competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3772. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6129 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3771-000]

Mitchell Energy Company, Inc.; Notice of Application for Preliminary Permit

February 18, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 21, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No 3771 to be known as DePere Lock and Dam located at the U.S. Army Corps of Engineers' DePere Lock and Dam on the Fox River in Brown County, DePere Wisconsin. The applicatioin is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam. Project No, 3771 would consist of: (1) a proposed powerhouse located just below the existing dam structure and having an estimated generating capacity of approximately 2.7 MW; (2) proposed transmission lines; and (3) appurtenant facilities. The proposed project is located on Federal lands. The Applicant estimates that the average annual energy output would be 14,422,000 kWh.

Purpose of Project—Applicant plans to sell the generated output of energy to the Wisconsin Electric Power Company or another local utility.

Proposed Scope and Cost of Studies under permit—The Applicant seeks issuance of a preliminary permit for a 36 month time period. Within the 36 month time period the Applicant intends to conduct engineering, environmental, and legal examinations. The total cost of the proposed examinations is $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 22, 1981, either the competing application itself or a notice of initent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 22, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protest. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 22, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3771. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretay.

[FR Doc. 81-6130 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No, 3696-000]

Mitchell Energy Company, Inc.; Notice of Application for Preliminary Permit

February 18, 1981.

Take notice that Mitchell Engegy Company, Inc. (Applicant) filed on November 7, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3696 to be known as the Caballo Project located on the Rio Grande near the Town of Caballo in Sierra County, New Mexico. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing Water and Power Resources Service's Caballo Dam and would consist of: (1) a 12-foot diameter steel liner through the existing 14-foot diameter outlet tunnel; (2) a bifurcation and control house located at

the existing tunnel outlet portal; (3) an outlet with an energy dissipator leading to the existing stilling basin: (4) a gated 11.5-foot diameter 50-foot long penstock; (5), a powerhouse located along the right (west) bank containing a generating unit having a rated capacity of 2,752 kW; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 12,620,000 kWh.

Purpose of Project—Project energy would be sold to the Public Service Company of New Mexico or to another local utility.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of two years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, and historic aspects of the profect, and would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Sequoia Energy Corporation's Project No. 3663 filed on November 4, 1980, under 18 CFR 4.33 (1980). Anyone desiring to file a competing application must submit to the Commission, on or before February 27, 1981, either the competing application itself or a notice of intent to file competing application. Submission of a timely notice of intent a allows an interested person to file the competing application no later than April 28, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protests may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protest or comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before March 27, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3696. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6131 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-180-000]

Montaup Electric Co.; Order Accepting for Filing and Suspending Proposed Rates, Directing Amended Filing, Granting Interventions, and Establishing Procedures

Issued February 17, 1981.

On December 19, 1980, Montaup Electric Company (Montaup) submitted for filing a proposed increase in rates to two affiliated [1] and four non-affiliated [2] wholesale customers. This proposed increase would result in additional revenues of approximately $8,982,574 (4.3%) for the twelve month period ending December 31, 1981.[3]

Montaup concurrently submitted for filing revisions to agreements under which (1) Blackstone Valley Electric Company and Eastern Edison Company rent 115 kv transmission facilities to Montaup, and (2) Montaup rents certain transformers and substation facilities to Eastern Edison Company.[4] According to Montaup, these revisions which would provide for increased charges for the transmission facilities which are rented to the other parties have been made in order to reflect the current cost of capital, including return on common equity, for each company.

Montaup requests an effective date of February 18, 1981, for the proposed rate increase to its wholesale customers and for the increased transmission rental charges. If the rates are suspended, Montaup further requests that they be suspended for only one day.

Notice of the filing was issued on December 31, 1980, with responses due on or before January 15, 1981. On January 15, 1981, Newport Electric Corporation and the Attorney General of Rhode Island together with the Rhode Island Division of Public Utilities and Carriers filed petitions to intervene. On January 16, 1981, the Town of Middleborough, Massachussetts and the

[1] Blackstone Valley Electric Company and Eastern Edison Company (Eastern Edison was formed through a merger of Brockton Edison Co. and Fall River Electric Light Company on August 1, 1979).

[2] Newport Electric Corporation, Pascoag Fire District, Town of Middleborough, and Narragansett Electric Company.

[3] Montaup's present rates were submitted as interim rates to reflect a settlement of (1) a proposed rate increase to these same customers which was tendered for filing on July 11, 1980 (Docket No. ER80-520), and (2) an application for the inclusion of certain CWIP in rate base under the severe financial difficulty exception of section 2.16 of our regulations (Docket No. EL80-6). By order issued January 2, 1981, these interim rates were made effective from December 1, 1980, pending final Commission action on the anticipated settlement. An offer of settlement was filed on February 3, 1981.

[4] For rate schedule designations, see Attachment A.

Pascoag Fire District of the Town of Pascoag, Rhode Island jointly filed an untimely protest and petition to intervene. The Narragansett Electric Company filed an untimely petition to intervene on January 26, 1981. Of the foregoing pleadings, only the January 16th protest raised specific substantive issues. One issue [5] raised in this protest was that Montaup's cost of service should be reduced by $1.2 million to reflect a revised contract, finalized after Montaup's filing was prepared, which provides for a reduction in purchases from the New Brunswick Power Commission's Coleson Cove units.[6]

On February 2, 1981, Montaup filed a response to the joint protest of the Town of Middleborough and the Pascoag Fire District. In this response, Montaup disputed the assertions set out in the protest, but did agree to immediately reduce its cost of service by $1,103,000 because of the revised New Brunswick arrangement.[7] Montaup further stated that if the revised New Brunswick agreement is not accepted, "Montaup will either revert to billing under the demand charge as filed or file whatever revision to the M-6 filing which may be appropriate."

Discussion

Our analysis indicates that Montaup's proposed rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates and revised transmission agreements for filing and suspend them as ordered below.

In a number of suspension orders,[8] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances are presented here. Although a number of matters raised in this proceeding warrant investigation at hearing, our preliminary analysis reveals that the rates proposed by Montaup may not be substantially excessive. A nominal suspension should minimize any adverse effects on the company while ensuring refund protection for its customers. Accordingly, we shall exercise our discretion to suspend the rates for only one day permitting the rates to take effect subject to refund thereafter on February 19, 1981.

As noted above, Montaup has stated that it would revise its proposed rates downward to reflect the revised New Brunswick arrangement following Commission acceptance of that agreement. According to Montaup, this adjustment has the effect of reducing the M-6 demand charge from $8.35316/kw/month to $8.22031/kw/month. Because the New Brunswick contract has now been accepted for filing (*see* footnote 6, *supra*), we shall direct Montaup to comply with its representation and to file the lower rates within thirty days of this order.

Additionally, we find that participation in this proceeding by each of the petitioners may be in the public interest and that good cause exists to permit the Town of Middleborough, the Pascoag Fire District, and Narragansett Electric Company to intervene out of time. Furthermore, the Town of Middleborough and the Pascoag Fire District will have full opportunity to pursue the matters set forth in their protest at the hearing convened pursuant to this order.

The Commission Orders: (A) Montaup's December 19, 1980 submittals are hereby accepted for filing and suspended for one day to become effective, subject to refund, on February 19, 1981.

(B) Within thirty (30) days after issuance of this order, Montaup is hereby directed to submit revised rate schedules incorporating its agreement to reduce the proposed M-6 demand charge from $8.35316/kw/month to $8.22031/kw/month.

(C) The Newport Electric Company, the Attorney General of the State of Rhode Island and the Rhode Island Division of Public Utilities and Carriers, the Town of Middleborough, Massachusetts, the Pascoag Fire District of the Town of Pascoag, Rhode Island, and Narragansett Electric Company are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* that participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *provided, further,* that the admission of any intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(D) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act, and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I (1979)], a public hearing shall be held concerning the justness and reasonableness of the proposed rates.

(E) The Commission staff shall serve top sheets in this proceeding on or before May 4, 1981.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding to be held within approximately fifteen (15) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Montaup Electric Company, Docket No. ER81-180-000, Rate Schedule Designations

Designation	Description
Montaup Electric Company	
1. Tenth Revised Sheet No. 4 under FPC Eelctric Tariff, Original Volume No. 1 (Supersedes Ninth Revised Sheet No. 4).	M-6 Rates.
2. Eleventh Revised Sheet No. 6 under FPC Electric Tariff, Original Volume No. 1 (Supersedes Tenth Revised Sheet No. 6).	Revision of Fuel Clause Base figures.
3. Supplement No. 15 to Rate Schedule FPC No. 33 (Supersedes Supplement No. 14).	Newport Electric Corporation M-6 Rates.

[5] Other issues raised in this protest pertain to (1) rate or return; (2) cash working capital; and (3) various tax items.

[6] That contract was filed with this Commission on December 24, 1980, and assigned Docket No. ER81-205. By letter order dated February 10, 1981, the Director of the Office of Electric Power Regulation accepted the contract for filing pursuant to his delegated authority.

[7] Montaup also stated that it had agreed in its transmittal letter accompanying this filing to file an immediate reduction reflecting the revised New Brunswick contract as soon as that contract is accepted by this Commission.

[8] *E.g., Boston Edison Co.*, Docket No. ER80-506 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illumination Co.*, Docket No. ER80-468 (August 22, 1980) (one day suspension).

Montaup Electric Company, Docket No. ER81-180-000, Rate Schedule Designations—Continued

Designation	Description
4. Supplement No. 19 to Rate Schedule FPC No. 36 (Supersedes Supplement No. 18).	Town of Middleboro, M-6 Rates.
5. Supplement No. 4 to Rate Schedule FPC No. 58 (Supersedes Supplement No. 3).	Revision to Exhibit D (Cost of Capital).
6. Supplement No. 9 to Rate Schedule FEPC No. 63 (Supersedes Supplement No. 8).	Pascoag Fire District, M-6 Rates.
Blackstone Valley Electric Company	
7. Supplement No. 10 to Rate Schedule FPC No. 21 (Supersedes Supplement No. 9).	Revised Cost of Nital.
Brockton Edison Company	
8. Supplement No. 10 to Rate Schedule FPC No. 15 (Supersedes Supplement No. 9).	Revised Cost of Capital.

[FR Doc. 81-6106 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-78]

Mountain Fuel Supply Co.; Filing of Offer of Settlement

February 17, 1981.

Take notice that on February 12, 1981, Mountain Fuel Supply Co. (Mountain Fuel) filed on Docket No. CP80-78 an Offer of Settlement pursuant to section 1.18(e)(1)(ii) of the Commission's Rules of Practice and Procedure. Mountain Fuel states that the Offer of Settlement is the product of meetings with Commission Staff and other interested parties and is considered a reasonable resolution of the issues raised in the aforementioned docket.

Mountain Fuel further states that this case involves a May 9, 1980 amended application, notice of which was published in the **Federal Register** on June 3, 1980 (45 FR 37506), for a certificate of public convenience and necessity to construct and operate interstate pipeline facilities for the transportation of natural gas on behalf of Northern Natural Gas Company (Northern). The gas to be transported for Northern is produced from reserves committed to Northern in the Painter Reservoir Field located near Evanston, Uinta County, Wyoming, and in the Pagoda Unit in Routt County, Colorado.

Under the Offer of Settlement, Mountain Fuel would construct and operate 12.23 miles of 12-inch pipeline from the Painter Reservoir to a point of intersection with its Line No. 48, thereby dedicating Line No. 48 to interstate commerce in lieu of constructing and operating the facilities proposed in its May 9, 1980, amendment. Line No. 48 was the subject of a complaint filed November 21, 1979 in Docket Nos. CP79-150, CP80-78 and CP78-449 by Northwest Pipeline Corporation (Northwest), claiming that Mountain Fuel was unlawfully attempting to obtain a competitive advantage by constructing a pipeline facility in the Eastern Utah without a certificate of public convenience and necessity. Mountain Fuel states that it filed an answer to the complaint on December 28, 1979, that on May 9, 1980, Northwest and Mountain Fuel amended their respective applications to remove their competitive character, and that Northwest filed for leave to withdraw the complaint. On August 29, 1980, the Commission dismissed the complaint in Docket Nos. CP79-150 and CP78-449, and stated that it would dispose of the matters raised by Northwest in the instant docket.

Mountain Fuel states that its offer is conditioned upon its actions pursuant to a Commission order accepting this settlement not being used against it in the future and on Northwest's pending motion to withdraw its complaint in this docket being granted.

As part of this settlement, Mountain Fuel further proposes to collect an initial charge of 8.37 cents per Mcf of gas transported from Painter Reservoir for the use of new facilities, a system transportation rate of 13.22 cents per Mcf, and a redelivery charge for compression of 5 cents per Mcf. Mountain Fuel states that it would collect such rates subject to refund, with interest, according to a refund formula set out in the Offer of Settlement, to the extent lower applicable rates are established by a final nonappealable Commission order approving or prescribing an overall transportation rate in Docket No. CP80-274 or any earlier appropriate rate proceeding.

The settlement offer does not affect the proposal to transport volumes for Northern from the Pagoda Unit in Routt County, Colorado, other than to offer to collect rates for such service subject to refund according to a formula set out in the Offer of Settlement.

Any person desiring to comment or to protest such filing should file a petition to intervene and comment, or protest, with the Federal Energy Regulatory Commission, 825 North Capitol St. N.E., Washington, D.C. 20426, in accordance with sections 1.8, 1.10 and 1.18 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10 and 1.18). All such petitions and comments or protests must be filed or before March 4, 1981, the date on which comments on the Offer of Settlement are due pursuant to section 1.18(e)(2) of the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6107 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP76-492]

National Fuel Gas Supply Corp. and Penn-York Energy Corp.; Amendment to Application

February 19, 1981.

Take notice that on January 30, 1981, National Fuel Gas Supply Corporation (Supply), 308 Seneca Street, Oil City, Pennsylvania 16301, and Penn-York Energy Corporation (Penn-York), 10 Lafayette Square, Buffalo, New York 14202, filed in Docket No. CP76-492 an amendment to their application filed in said docket on August 20, 1976,[1] pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity so as to permit (a) Penn-York to provide natural gas storage service to identified storage customers according to revised service schedules during a period beginning April 1, 1981, until further determination in this proceeding, (b) Supply to render limited-term and standby storage service through existing facilities to Penn-York during a similar period, (c) Penn-York to construct certain storage facilities, and (d) Supply to add a delivery point for transportation of gas stored for UGI Corporation (UGI), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicants propose to render the following storage service beginning in the 1981-82 storage year in an aggregate amount of 15,871,620 Mcf top gas storage capacity:

(In 1,000 ft³)

Customer [2]	Existing service in storage year beginning Apr. 1, 1980	Service level authorization now requested for storage year beginning Apr. 1, 1981 and thereafter	Service level authorization to be requested for storage year beginning Apr. 1, 1982 and thereafter
Berkshire [3]		260,000	400,000
Boston [4]		876,620	876,620
Central Hudson	200,000	200,000	[5] 200,000
Connecticut		1,500,000	1,500,000
Conn. Natural	1,000,000	1,500,000	1,500,000
Delmarva	450,000	750,000	750,000
Elizabethtown	1,500,000	1,500,000	1,500,000
Fitchburg		50,000	[5] 300,000
Granite			[6] 2,400,000
Gas Service		100,000	200,000
Haverhill		350,000	350,000

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Customer [1]	Existing service in storage year beginning Apr. 1, 1980	Service level authorization now requested for storage year beginning Apr. 1, 1981 and thereafter	Service level authorization to be requested for storage year beginning Apr. 1, 1982 and thereafter
Lowell	2,000,000	2,000,000	2,000,000
Manchester [2]		135,000	135,000
O&R	1,000,000	1,000,000	[3] 1,500,000
Penn Fuel		850,000	850,000
Penn & Southern		200,000	200,000
Southern Conn [2]		150,000	150,000
UGI	3,000,000	4,000,000	4,000,000
Valley		450,000	450,000
Total	9,150,000	15,871,620	19,261,620

[1] The full names of these customers are: The Berkshire Gas Company, Boston Gas Company, Central Hudson Gas & Electric Corporation, The Connecticut Gas Company, Connecticut Natural Gas Corporation, Delmarva Power & Light Company, Elizabethtown Gas Company, Fitchburg Gas and Electric Light Company, Gas Service, Inc., Haverhill Gas Company, Lowell Gas Company, Manchester Gas Company, Orange and Rockland Utilities, Inc., Penn Fuel Gas, Inc., Pennsylvania & Southern Gas Corporation, The Southern Connecticut Gas Company, UGI Corporation, Valley Gas Company.

[2] Customers have been the subject of Penn-York's requests to serve in Docket No. CP79-212 which requests are now incorporated herein.

[3] Service to Central Hudson would increase to 500,000 Mcf in the storage year beginning April 1, 1983. Total service by Penn-York in that year would reach 19,561,620 Mcf. All Penn-York annual service quantities in excess of annual levels specified for the year beginning April 1, 1981, would require further authorization. Supporting documentation for such future service quantities has previously been filed excepting increased levels for Fitchburg and O&R, and excepting new service for Granite. Each of these three parties has stated that it would execute a precedent agreement with Penn-York for additional or new storage service to be authorized pursuant to an amendment to be filed in this proceeding in the near future.

Applicants state that they would jointly render such service using Penn-York's facilities supplemented by storage service obtained from Supply while Penn-York would be the certificate holder and contracting party with its customers.

Applicants also state that the maximum daily injection quantity for each customer in the 1981–82 storage year would be one/two-hundredth of its annual storage quantity and the maximum daily withdrawal quantity in the 1981–82 storage year would be one/one-hundredth and fiftieth of its annual storage quantity. Furthermore, the maximum daily injection and withdrawal quantities may be exceeded upon the customers' request as operating conditions permit, it is asserted.

Applicants also propose that Supply render up to 12,171,620 Mcf of underground storage service to Penn-York during the 1981–82 storage year including 3,700,000 Mcf of capacity to be made available on a standby basis only as required by Penn-York. They further propose that Supply make available on a standby basis 7,511,620 Mcf in 1982–83 and 6,185,419 Mcf in 1983–84 and thereafter until Penn-York receives permanent certificate authorization at a level of at least 6,185,419 Mcf. Penn-York would pay Supply 40.77 cents per Mcf for this service which would enable Penn-York to meet customer requirements in excess of available capacity in Penn-York's facilities, it is explained.

Applicants further propose that Penn-York (a) establish seven new injection/withdrawal wells at its West Independence Field by converting three existing observation wells and drilling four new wells, (b) drill one observation well at its East Independence Field, and (c) increase the maximum inventory level in the East Independence Field from 5,000,000 Mcf to 6,100,000 Mcf on a temporary basis during the 1981–82 and 1982–83 storage years.

Applicants further propose that Supply transport storage gas for UGI through an additional existing delivery point near Warton, Pennsylvania.

Applicants state that Supply is presently authorized to provide transportation service to UGI for its gas stored with Penn-York through the First Fork interconnection of facilities of Supply with those of Columbia Gas Transmission Corporation (Columbia) and that such service is being rendered pursuant to an executed service agreement dated August 1, 1980.

It is asserted that the proposed service is necessary because UGI's need for transportation of storage related volumes are in excess of Columbia's ability to transport during 1980–81 and similar difficulties are anticipated for the future. It is also asserted that no construction of facilities is required and no change in terms and conditions applicable to the previously certificated transportation service would occur.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 12, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6092 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3874-000]

Niagara Mohawk Power Corp.; Application for Preliminary Permit

February 18, 1981.

Take notice that Niagara Mohawk Power Corporation (Applicant) filed on December 15, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3874 to be known as the Ogdensburg Project located on the Oswegatchie River in the City of Ogdensburg, St. Lawrence County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John H. Terry, Esquire, Senior Vice President, General Counsel and Secretary, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed run-of-the river project would consist of: (1) an existing 12-foot high and 347-foot long concrete gravity-type dam having spillway crest elevation 258.0 feet m.s.l. and having three steel flood gates and ice sluice gate; (2) a reservoir having negligible storage capacity; (3) a new integral concrete powerhouse at the left (north) bank including an intake structure and containing two generating units having a total rated capacity of 2,250 kW; (4) an existing tailrace; (5) a new electrical equipment structure; (6) a new 13.2 kV underground transmission cable; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 12,400,000 kWh.

Purpose of Project—Project energy would be incorporated into Applicant's existing transmission distribution network for sale within its service area.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct geotechnical surveys, perform technical and economic studies, prepare an environmental report and prepare an application for an FERC license.

Applicant estimates the cost of the studies under the permit would be $195,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, is issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no leter than June 22, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3784. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6150 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3587-000]

Frank B. Nichols; Notice of Application for Preliminary Permit

February 20, 1981.

Take notice that Frank B. Nichols (Applicant) filed on October 17, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3587 to be known as Nichols Power Project located on South Fork of Bear Creek in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Frank B. Nichols, P.O. Box A, Shingletown, California 96088. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) two concrete diversions and catch basins; (2) a 5,400-foot penstock; (3) 3,800-foot penstock; (4) two power plants with a 250- and a 1,000-kW generator; and (5) two 12.47 kV transmission lines.

The Applicant estimates that the average annual energy output would be 8 million kWh.

Purpose of Project—The power produced by the proposed project would be possibly sold to Pacific Gas and Electric Company.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would make geologic studies, determine environmental impacts, make economic and financial feasibility studies, and apply for necessary rights. The cost of these activities is estimated by the Applicant to be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 27, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 26, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the

requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 27, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3587. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6123 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-140-000]

Northern Natural Gas Company, Division of Internorth, Inc.; Notice of Application

February 10, 1981.

Take notice that on January 14, 1981, Northern Natural Gas Company, Division of Internorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-140-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to sell natural gas to Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has acquired a 16.67 percent interest in East Cameron Block 104, offshore, Louisiana, from Texasgulf, Inc. and that Applicant's affiliate, Exploration and Production Division of Internorth, Inc., also owns a 16.67 percent interest in Block 104. Applicant also states that it has entered into an agreement with Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) dated October 10, 1980, for transportation of such gas. Applicant further states that under this agreement, Tennessee would receive Applicant's Block 104 gas at a point of interconnection between the jointly owned pipeline facilities extending from Block 104 and Tennessee's pipeline facilities located in East Cameron Block 97 and redeliver such gas to Trunkline Gas Company (Trunkline) at an existing interconnection between the facilities of Tennessee and Trunkline in Jefferson Davis Parish, Louisiana (Kinder).

Applicant asserts that it entered into a transportation and sales agreement with Panhandle and Trunkline dated October 24, 1980, which provides for the transportation of Applicant's Block 104 gas and the sale of up to 20 percent of such gas to Panhandle.

Applicant states that the option by Panhandle to purchase up to 20 percent of the volumes delivered to Trunkline for Applicant's account is partial consideration for the transportation of Applicant's Block 104 gas.

Applicant further asserts that Trunkline would receive Applicant's Block 104 gas at the Kinder delivery point and transport such gas to its Longville, Louisiana, compression station located in Beauregard Parish, Louisiana. Applicant submits that the gas would be transported from Trunkline's Longville Compression Station to Applicant's system by Trunkline and Panhandle pursuant to the terms of a transportation agreement between the parties dated September 24, 1976.

Applicant states that the gas would be sold to Panhandle on a monthly cost of service basis representing Applicant's cost of gas at the point of delivery to Trunkline. Applicant estimates that the average cost of service per Mcf for the first year of operation would be $3.13.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 4, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to becomed a party to a proceding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6132 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-135-000]

Northwest Pipeline Corp.; Notice of Application

February 10, 1981.

Take notice that on January 9, 1981, Northwest Pipeline Corporation (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. 81-135-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessary authorizing the reallocation of natural gas service for CP National Corporation (CP National) and for permission and approval to abandon certain natural gas service presently provided to CP National, all as more fully set forth in the application which is

on file with the Commission and open to public inspection.

Applicant proposes a reallocation of natural gas service under Applicant's Rate Schedule ODL–1 to CP National. Applicant states it would decrease delivery to CP National for resale to Boise Cascade Corporation at Applicant's Beaver Marsh, Oregon, metering station from 1,200 therms to zero therms and increase the daily delivery quantity which Applicant is presently authorized to sell and deliver to CP National at Applicant's Lagrande delivery point in Union County, Oregon, from 53,200 therms to 54,400 therms.

Applicant further requests permission and approval to abandon facilities and service at its Beaver Marsh, Oregon, meter station located in Klamath County, Oregon.

Applicant states that CP National by letter dated February 1, 1979, proposed to abandon service at Beaver Marsh and reallocate the maximum daily delivery obligation assigned to the Beaver Marsh delivery point to the Lagrande delivery point in order to maintain CP National's presently authorized maximum daily delivery obligation after the abandonment of service at the Beaver Marsh meter station.

Applicant asserts reallocation of natural gas service to CP National is the result of the sale of Boise Cascade's lumber mill to Georgia Pacific which caused the sale at Beaver Marsh to cease. It is further asserted that the facilities utilized to provide service at the Beaver Marsh delivery point were constructed by Pacific Gas Transmission Company (PGT) and that Applicant had reimbursed PGT for the costs incurred in construction said facilities. Applicant states, therefore, that upon abandonment of such facilities Applicant would receive any funds resulting from the salvage of such facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 4, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6133 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3809-000]

Old Dominion Electric Cooperative; Notice of Application for Preliminary Permit

February 18, 1981.

Take notice that Old Dominion Electric Cooperative (Applicant) filed on December 3, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3809 to be known as the Summersville Project located on the Gauley River in Nicholas County, West Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Ernest M. Jordan, Jr., Executive Vice President, Old Dominion Electric Cooperative, 5601 Chamberlayne Road, Richmond, Virginia 23227. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Summersville Dam and Reservoir and would consist of: (1) a new penstock tunneled through the right dam abutment or a new penstock utilizing the existing outlet works tunnel; (2) a new powerhouse containing generating units having a total rated capacity of 100,000 kW; (3) a tailrace, (4) two new 138 kV transmission lines of approximately 15 miles length and 25 miles length, respectively; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 338,000,000 kWh.

Purpose of Project—Project energy would be distributed by Old Dominion Electric Cooperative (Applicant), an REA generation and transmission cooperative, to its members in Virginia, Maryland, and Delaware through agreements with the Monongahela Power Company and the Appalachian Power Company.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimated the cost of the studies under the permit would be $137,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Noah Corporation's Application for Project No. 3493 filed on September 22, 1980 under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of

intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedure specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 30, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3809–000. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6134 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. G-13127-000, et seq.]

ONEOK Exploration Co.; Petition To Amend

February 18, 1981.

Take notice that on December 22, 1980, ONEOK Exploration Company (Petitioner), 624 South Boston Avenue, Tulsa, Oklahoma, 74119, filed in Docket No. G–13127–000, et seq. a petition pursuant to Section 16 of the Natural Gas Act to amend certain orders of the Commission and filing so as to change the name on such orders, filings and related rate schedules from ONG Exploration, Inc. to ONEOK Exploration Company, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the sole stockholder approved the subject name change on December 9, 1980. Petitioner further states that on December 9, 1980, it filed an amendment to its corporate charter with the Secretary of the State of Delaware effectuating the name change which amendment is self executing. It is asserted that no order or authorization or other action by the Secretary of State is necessary for the corporate name change to become effective, nor were any of the corporation's rights or obligations affected by the name change.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 26, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificate amendment or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6151 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-28-000]

Pacific Power & Light Co.; Application

February 18, 1981.

Take notice that on February 11, 1981, Pacific Power & Light Company (Applicant) filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing borrowings in an aggregate principal amount not to exceed $100,000,000 at any one time outstanding through drawings under a $100,000,000 loan facility evidenced by a letter agreement between Applicant and Credit Suisse First Boston Limited as Agent for the foreign banks or their affiliates listed in the Letter Agreement (Banks) or under borrowing arrangements with the same or other foreign banks for a period of 24 months.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 6, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6152 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-152-000]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Application

February 19, 1981.

Take notice that on January 21, 1981, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81–152–000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas with United Gas Pipe Line Company (United), all as more fully set

forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they have entered into an October 31, 1980, transportation and exchange agreement as amended January 5, 1981, with United to transport and exchange volumes of natural gas purchased by United in Ellis County, Oklahoma. It is stated that Panhandle would receive gas for United's account for Tejas Gas Company (Tejas) at a proposed point of interconnection between Panhandle's and Tejas' facilities in Ellis County, Oklahoma. Applicants state that Trunkline would redeliver equivalent volumes to United at a primary point of redelivery near Centerville, Louisiana, and at an alternate redelivery point between the facilities of Houston Pipe Line Company (Houston) and Trunkline to be constructed and operated by Trunkline in Waller County, Texas. It is stated that the volumes to be redelivered in Waller County, Texas, would be tendered to Houston for United's account.

Applicants state that they would transport up to 30,000 Mcf of natural gas per day on a firm basis and up to 20,000 Mcf per day on an interruptible basis. It is asserted that United would pay Panhandle a monthly charge of $210,600 and that for additional volumes transported on an interruptible basis the monthly charge would be increased by 23.08 cents per Mcf. It is further stated that pursuant to the transportation and exchange agreement United would pay an additional transportation charge of 1.35 cents per Mcf for volumes of natural gas redelivered for its account to Houston.

Applicants state that as partial consideration for the transportation service United has agreed to assign to Panhandle up to 50 percent of the gas volume so dedicated under each of United's various gas purchase contracts with producers of Ellis County.

Applicants state that they have sufficient capacity in their existing systems to transport the quantity of gas pursuant to the agreement as well as other volumes connected to their system. It is asserted that Panhandle would utilize its budget-type authorization for gas supply facilities to install the tap, valve and measurement facilities at the point of receipt and that United would reimburse Panhandle for the cost of these facilities.

It is asserted that the transportation service is for a term of ten years and from year to year thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 12, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natual Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6093 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3913-000]

Puget Sound Power & Light Co.; Application for Preliminary Permit

February 18, 1981.

Take notice that Puget Sound Power & Light Company (Applicant) filed on December 31, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3913 to be known as Thunder Creek Project located on Thunder Creek in Skagit County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert V. Myers, Vice President, Generation Resources, Puget Sound Power & Light Company, Puget Power Building, Bellevue, Washington 98009. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a 15-foot high, 150-foot long, concrete gravity dam; (2) a 78-inch diameter, 4,000-foot long, low pressure concrete pipe; (3) a 60-inch diameter, 3,000-foot long penstock; (4) a powerhouse containing a single generating unit with a rated capacity of 7,500 kW; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 32.6 million kWh.

Purpose of Project—Project energy would be utilized to serve the Applicant's customers.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 24-month preliminary permit to prepare a project report, including preliminary designs, and results of geological, hydrological, environmental and economic feasibility studies. Applicant has indicated that: (a) no new roads would be required for conducting the studies; and (b) test borings would be done in areas which are clear of vegetation, boring holes would be backfilled, and the ground surface reconditioned to the extent possible.

The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Federal, State, and local agencies, preparing a license application, conducting final field surveys and preparing designs is estimated by the Applicant to be $250,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and

consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 20, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 19, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 20, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3913. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6153 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3853]

Jorges Sanchez; Application for Preliminary Permit

February 18, 1981.

Take notice that Jorges Sanchez (Applicant) submitted on December 9, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed project No. 3853 at the U.S. Army Corps of Engineers St. Lucie Canal, Martin County, Florida. The application is on file with the Commission and Correspondence with the Applicant should be directed to: Mr. Jorges Sanchez, 239 Southland Road, Palm Beach, Florida 33480. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers lock and dam Project No. 3653 would consist of: (1) a proposed penstock approximately 20 to 30 feet in length and through the canal; (2) an existing powerhouse located above the eighth section of the dam; (3) existing transmission lines owned by Florida Power & Light Company; and (4) appurtenant facilities. Applicant estimates the capacity of the installed units to be 3.45 MW. The proposed project is located on Federal lands. The Applicant estimates that the average annual energy output would be 13,500,000 kWh.

Purpose of Project—Energy produced at the proposed project would be sold to the Florida Power & Light Company or other public institutions.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36 month permit to prepare a definitive project report, including, preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State, and local agencies is estimated to be $48,500.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 22, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3853. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Coimmission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6161 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3849]

Jorges Sanchez; Application for Preliminary Permit

February 20, 1981.

Take notice that Jorges Sanchez (Applicant) submitted on December 9, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3849 to be known as Structure 65 B, to be located at the South Florida Water Management Districts' Structure 65 B, a flood and navigation control project, on the Kissimmee River, Okeechobee, Florida. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jorges Sanchez, 239 Southland Road, Palm Beach, Florida 33480. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing South Water Florida Management Districts' dam. Project No. 3849 would consist of (1) a reinforced concrete frame lock measuring 30 feet in width and 90 feet in length having a normal lift of six feet and sill depth of six feet; (2) a proposed penstock approximately 35 feet in length extending from the powerhouse; (3) a proposed powerhouse located on the western bank of the canal; (4) an existing impoundment area, Canal 38, having a normal pool elevation of 40 feet and drainage area of 2,023 square miles; (5) transmission lines owned by Florida Power & Light Company; and (6) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 1.85 MW. The proposed project is not located on Federal lands. The Applicant estimates that the average annual energy output would be 5×10^6 kWh.

Purpose of Project—Energy produced at the proposed site would be sold to Florida Power & Light Company or another industrial user.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 36 month permit to prepare a definite project report, including preliminary design and economic feasibility studies, environmental and social studies, soil and foundation data. The cost of the aforementioned activities, along with obtaining agreement with other Federal, State, and local agencies is estimated to be $45,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing applications must submit to the Commission, on or before April 27, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 26, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protest or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petiton to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 27, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3849. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6094 Filed 2-23-81: 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3031]

Shoshone Irrigation District; Application for License (Major)

February 20, 1981.

Take notice that the Shoshone Irrigation District (Applicant) filed on January 16, 1980, an application for a major license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for the Garland Canal Project No. 3031 located on the Shoshone River in Park County, Wyoming. Correspondence with the Applicant should be directed to: Mr. Dean House, President, Board of Commissioners, Shoshone Irrigation District, P.O. Box 822, Powell, Wyoming 82435.

Project Description—The proposed project would consist of: (1) a concrete powerhouse containing one generating unit with a rated capacity of 2,400 kW and a substation adjacent to the powerhouse. The power plant would utilize an effective head of approximately 2,400 feet long with interior dimensions of 10 feet by 10 feet; (3) a 12.5 kV transmission line which would run along the existing road for approximately 6,300 feet; and (4) appurtenant facilities. The applicant estimates that the project would annually generate 9,754,000 kWh.

Applicant's proposed project would divert and utilize waters owned by the Water and Power Resources Services, Department of the Interior, to develop hydroelectric power. Applicant's facilities would be partially located on U.S. lands.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 3, 1981, either the competing application itself or a timely notice of intent to file a competing application. Submission of a notice of intent allows an interested person to file the competing application no later than August 3, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 3, 1981. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6124 Filed 2-23-81: 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3933-000]

Eric Tharalson; Application for Preliminary Permit

February 17, 1981.

Take notice that Eric Tharalson (Applicant) filed on January 5, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3933 to be known as Eric Tharalson Project located on Old Cow Creek in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Eric Tharalson, 3353 Wilshire Drive, Redding, California 96001. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a diversion structure; (2) a penstock, 1,000 feet long; and (3) a powerhouse with a total installed capacity of 600 kW.

The Applicant estimates that the average annual energy output would be 2.9 million kWh.

Purpose of Project—Applicant intends to market the power generated by the proposed project to a public utility system.

Proposed Scope and Cost of Studies Under Permit—The studies that would be performed under the preliminary permit would include an economic analysis, preliminary engineering, and a study of environmental impacts. Based on the results of the studies, Applicant would decide whether to proceed with more detailed designs and prepare an application for license to construct and operate the project. Applicant estimates the cost of the proposed studies would be $80,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 22, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 22, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a

party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 22, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3933. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[Fr Doc. 81-6095 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3607-000]

Thornapple Association, Inc., Notice of Application for Preliminary Permit

February 20, 1981.

Take notice that Thornapple Association, Inc. (Applicant) filed on October 24, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3607 to be known as Ada Dam located on the Thornapple River in Kent County, Michigan. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Donald P. Weaver, Ayres, Lewis, Norris, and May, Inc., 3983 Research Park Drive, Ann Arbor, Michigan 48104. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) an existing reservoir with a storage capacity of 2,300 acre-feet and a surface area of 230 acres at normal power tool elevation of 635.8 feet m.s.l.; (2) an existing reinforced concrete dam 108.67 feet long and 38 feet high; (3) an existing powerhouse with proposed generating units having a total estimated installed capacity of 1,000 kW; (4) proposed transmission lines; and (5) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 5,000,000 kWh.

Purpose of Project—The power generated at the project would be sold to one of several local utilities.

Proposed Scope and Cost of Studies Under Permit—The applicant seeks issuance of a preliminary permit for a period of 24 months, during which time it proposes to conduct engineering, economic and environmental feasibility studies, along with preparing preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $15,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, is issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application of a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issued relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 27, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 26, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with one Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 27, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3607. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the origninal and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6125 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3875-000]

Town of Liberty, Indiana; Notice of Application for Preliminary Permit

February 18, 1981.

Take notice that the Town of Liberty, Indiana (Applicant) filed on December 15, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for the proposed Brookville Dam, Project No. 3875 to be located at the U.S. Army Corps of Engineers' Brookville Dam and Lake, a flood control project, on the East Fork of the Whitewater River near Brookville, in Franklin County, Indiana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Kenneth D. Neal, c/o Town Hall, P.O. Box 7, Liberty, Indiana 47353. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 3875 would consist of: (1) a proposed penstock extending from the outlet conduit; (2) a proposed powerhouse located on the south bank of the river; (3) proposed transmission lines, and (4) appurtenant facilities. Applicant estimates the capacity of the project would be 5,600 kW, and the annual energy output would be 14 GWH.

Purpose of Project—The Applicant expects to use the energy produced to offset municipal purchases of power and to encourage industry to locate near Liberty with the Prospect of attractive power costs.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 36 month permit to prepare a definitive project report including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies is estimated to be $100,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Continental Hydro Corporation Project No. 3393 on Brookville Dam Project in Brookville, Indiana, under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. §.1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 27, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3875. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6135 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4062-000]

Town of Wayne; Application for Preliminary Permit

February 18, 1981.

Take notice that the Town of Wayne (Applicant) filed on January 27, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 169 U.S.C. 791(a)–825(r)) for proposed Project No. 4062 to be known as the Wayne Village Project located on Pocasset Lake in the Town of Wayne, Kennebec County, Maine. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Joan A. Hazzard, Chairman, Board of Selectmen, Wayne Town Office, Wayne, Maine 04284. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) the Town's existing 13-foot-high, 120-foot-long masonry and concrete dam; (2) a reservoir with a surface area of 587 acres and a storage capacity of 1,174 acre-feet, (3) a new powerhouse containing a single turbine-generator with a rated capacity of 326.4 Kw; (4) a transmission line; and (5) appurtenant facilities.

The Applicant estimates that the average energy output would be 1,122,000 Kwh.

Purpose of Project—Energy produced at the project would be sold to Central Maine Power Company.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the

preparation of an application for license to construct and operate the project.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the enegineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 2, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 1, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervenue—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 2, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitons to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4062. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6162 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3982-000]

Utilities Board of the City of Lamar; Application for Preliminary Permit

February 18, 1981.

Take notice that the Utilities Board of the City of Lamar, Colorado (Applicant) filed on January 8, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] located on Cimarron Creek in Colfax County, New Mexico. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Bill D. Carnahan, Superintendent; Lamar Utilities Board; 100 North Second Street; Lamar Colorado 81052. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) the existing Eagle Nest Dam, a 140-foot high concrete arch structure having a length of 400 feet; (2) the existing Eagle Nest Reservoir, having 78,800 acre-feet of storage at a normal pool elevation of 8,137 (USGS datum); (3) the existing outlet works and stilling basin; (4) a new powerhouse to be located above the stilling basin, having an installed generating capacity of 965kW; (5) new transmission lines; and (6) appurtenant works. The Eagle Nest Dam and Reservoir are owned by the Charles Springer Cattle Company, Cimarron, New Mexico. The Applicant estimates that the average annual energy output would be 2,704,000 kWh.

Purpose of Project. Project energy would be utilized by the Applicant for the benefit of all its customers.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time the Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of studies under permit would be between $5,000 and $40,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 2, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent

allows an interested person to file the competing application no later than June 1, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 2, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable.

Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3982. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to : Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6160 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-175-000]

United Gas Pipe Line Co.; Application

February 19, 1981.

Take notice that on February 3, 1981, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP81-175-000 an application pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 and Section 284.107(b) of the Regulations thereunder for approval to transport natural gas for EOOE Gas Company (EOOE), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an agreement with EOOE dated November 24, 1980, whereby it would receive for the account of EOOE up to 8,000 Mcf of natural gas per day from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) at a point of interconnection between Tennessee and Applicant's 6-inch Iowa-Marksville line near Oakdale in Allen Parish, Louisiana. Applicant would subsequently redeliver an equivalent quantity of gas to EOOE at a point of interconnection between Applicant's 6-inch Iowa-Marksville line and EOOEs line in Allen Parish, Louisiana, it is stated.

Applicant further states that the aforementioned agreement with EOOE would become effective on the date delivery of gas commenced and would remain in effect for a primary term of five years and from year to year therefter.

Applicant further proposes that there be no charge to EOOE for this service due to the small volume of gas involved in the arrangement and the minimal distance between the receipt and delivery points.

It is asserted that EOOE has obtained a supply of natural gas in Cameron Parish, Louisiana, from Louisiana Resources Company which gas would be used to provide service to the Town of Elizabeth, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 12, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 24026, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6096 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-226-000]

Vermont Electric Power Co.; Errata Notice (February 18, 1981); Notice of Filing (Issued January 30, 1981)

Take notice that the notice issued on January 31, 1981 in the above referenced proceeding is in incorrect. The notice should read:

The filing company submits the following:

Take notice that on January 19, 1981, Vermont Electric Power Company (VELCO) submitted for filing a supplement to a Power Transmission Agreement between VELCO and the State of Vermont. VELCO states that this filing provides for the transmission of 40,000 kilowatts of firm electric power, 10,000 kilowatts of peaking power, and for power of such other classes as may, from time to time, become available, and which the state elects to have transmitted.

VELCO proposes an effective date of January 1, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before February 27, 1981. Protests will be considered by the Commission in determining the appropriated action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6097 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3944-000]

Village of Rockdale, Illinois; Application for Preliminary Permit

February 17, 1981.

Take notice that the Village of Rockdale, Illinois (Applicant) filed on January 8, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3944 to be known as Brandon Road Lock and Dam located on the Illinois River in Will County, Illinois. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Donald Gould, Village President, Village of Rockdale, Otis and Midland Avenue, Rockdale, Illinois 60436. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Brandon Road Lock and Dam. The proposed project would consist of: (1) a proposed powerhouse, containing four generating units with a total installed capacity of 15 MW; and (2) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 70 GWh.

Purpose of Project—Applicant proposes to market the power within its corporate limits or sell the energy produced to Commonwealth Edison of Chicago.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 12 months, during which time applicant would accomplish hydrological, engineering, environmental, and economic feasibility studies on the project and prepare an application for FERC license. Applicant estimates cost of studies under its permit would be about $45,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to the Brandon Road Lock and Dam Project No. 3567 on the Illinois River, in Will County, Illinois under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 17, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3944. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, protest, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6126 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3829-000]

Western Farmers Electric Cooperative and the City of Duncan, Oklahoma; Application for Preliminary Permit

February 18, 1981.

Take notice that Western Farmers Electric Cooperative and the City of Duncan, Oklahoma (Applicant) filed with December 5, 1980, and supplemented on December 31, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for proposed Project No. 3829 to be known as the Pine Creek Project located on The Little River in McCurtain County, Oklahoma. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Joe R. Moody, Jr., Benham-Holway Power Group, 4111 South Darlington Avenue, Tulsa, Oklahoma 74135. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Pine Creek Dam and would consist of: (1) a diversion structure located on the existing outlet conduit; (2) a short penstock; (3) a powerhouse located along the right (west) bank and containing a generating unit having a rated capacity of 2,000 kW; (4) a short tailrace; (5) a switchyard; (6) a 6-mile-long 69-kV transmission line; and (7) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 6,300,000 kWh.

Purpose of Project—Project energy would be fed into the existing Western Farmers Electric Cooperative transmission system to supply a portion of Applicant's energy requirements.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks

issuance of a preliminary permit for a period of three years, during which time it would prepare studies, conduct investigations, tests and surveys, and would prepare an application for a FERC license. Applicant estimates the cost of the studies under the permit would be $80,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right to priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of the permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to that of Continental Hydro Corporation Project No. 3372 filed on August 25, 1980, under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 18, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3829. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6164 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3830-000]

Western Farmers Electric Cooperative and the City of Duncan, Oklahoma; Notice of Application for Preliminary Permit

February 20, 1981.

Take notice that Western Farmers Electric Cooperative and the City of Duncan, Oklahoma (Applicant) filed on December 5, 1980, and supplemented on December 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3830 to be known as the Wister Project located on the Poteau River in LeFlore County, Oklahoma. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Joe R. Moody, Jr., Benham-Holway Power Group, 4111 South Darlington Avenue, Tulsa, Oklahoma 74135. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Wister Dam and would consist of: (1) a diversion structure located on the existing outlet conduit; (2) a short penstock; (3) a powerhouse located along the right (south) bank and containing two generating units having a total rated capacity of 3,000 kW; (4) a short tailrace; (5) a switchyard; (6) a 3-mile long 69-kV transmission line; and (7) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 8,200,000 kWh.

Purpose of Project—Project energy would be fed into the existing Western Farmers Electric Cooperative transmission system to supply a portion of Applicant's energy requirements.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies, conduct investigations, tests and surveys, and would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $80,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right to priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of the permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to that of Continental Hydro Corporation Project No. 3356 filed on August 25, 1980, under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this

application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before March 20, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3830. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capital Street, NW., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6127 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-248-000]

Wisconsin Electric Power Co.; Filing

February 18, 1981.

The filing company submits the following:

Take notice that on January 26, 1981, Wisconsin Electric Power Company (WEP) submitted for filing Rate Schedules 15 through 24, inclusive. Said rate schedules provide for service to the municipalities of Cedarburg, Deerfield, Elkhorn, Hartford, Jefferson, Lake Mills, Oconomowoc, Slinger, Waterloo and Kiel, respectively.

WEP requests a waiver of 35.13 of the Commission's rules and regulations and further requests an effective date of April 1, 1981.

A copy of this filing has been served upon the affected wholesale customers and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspecion.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6165 Filed 2-23-81; 8:45 am]

BILLING CODE 6450-80-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00138; PH-FRL 1761-8]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: There will be a one-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to review EPA's assessment of the oncogenic potential of permethrin. The meeting will be open to the public.

DATES: March 10, 1981, from 8:30 a.m. to 5:00 p.m.

ADDRESS: The meeting will be held at the: Arlington Room, Twin Bridges Marriott Hotel, 333 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Philip H. Gray, Jr., Acting Exectutive Secretary, FIFRA Scientific Advisory Panel (TS-766C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 803, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7560).

SUPPLEMENTARY INFORMATION: EPA wishes to review with the Scientific Advisory Panel the Agency's data analyses and conclusions concerning the oncogenc potential of permethrin.

Any member of the public wishing to attend or submit a paper should contact Philip H. Gray, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. All statements will be made part of the record and will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons wishing to make oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than March 5, 1981.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies to submit to ensure appropriate consideration by the Panel.

The scheduled date for the next Scientific Advisory Panel meeting is March 25-27, 1981.

(Sec. 25(d), as amended, 92 Stat. 819; (7 U.S.C. 136); Sec. 10(a)(2), 86 Stat. 770 (5 U.S.C. App.))

Dated: February 18, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-6389 Filed 2-23-81; 8:45 am]

BILLING CODE 6560-32-M

[OPP-30163A; PH-T-RL 1759-6]

Sandoz, Inc.; Approval of Application To Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the approval of an application submitted by Sandoz, Inc., to register the pesticide product TECHNICAL PROPETAMPHOS, containing the new active ingredient propetamphos [(E)-1-methylethyl 3-[[(ethylamino) methoxyphosphenothioyl]oxy]-2-butenoate] at 91 percent.

FOR FURTHER INFORMATION CONTACT: William H. Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs,

Environmental Protection Agency, Rm. 403, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7040).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of May 21, 1979 (44 FR 29538) that Sandoz, Inc., 480 Camino del Rio South, Suite 204, San Diego, CA 92108, had filed an application to register the pesticide product TECHNICAL PROPETAMPHOS (for manufacturing use only) containing the new active ingredient propetamphos at 91 percent. The application proposed that the product be used as a technical ingredient only in formulating insecticides.

Sandoz, Inc., has received approval to register the pesticide product Technical Propetamphos (for manufacturing use only) containing the new active ingredient propetamphos [(E)-1-methylethyl 3-[[(ethylamino) methoxyphosphinothioyl]oxy]-2-butenoate] at 90.7 percent. This application was approved on December 22, 1980 and the product has been assigned EPA Registration No. 11273–21.

A copy of the label and list of data references used to support registration are available for public inspection in the product manager's office. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) will be available for inspection in the Information Services Branch, Rm. EB–35, EPA, 401 M St. SW., Washington, D.C. (202–426–8850) in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of December 22, 1980. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, at the above address. Such requests should: (1) Identify the product by name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(5), 92 Stat. 824, (7 U.S.C. 136))

Dated: February 10, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-6078 Filed 2-23-81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL ELECTION COMMISSION

[Notice 1981–2]

Filing Dates for Michigan Special Primary and General Elections

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for Michigan special primary and general elections.

SUMMARY: Committees required to file reports in connection with the special primary election to be held in the 4th Congressional District of Michigan on March 24, 1981 must file the 12-day pre-primary report by March 12, 1981 and an April 15 quarterly report by April 15, 1981. Committees required to file reports in connection with *both* the special primary election and the special general election to be held on March 24, 1981 and April 21, 1981, respectively, must file the 12-day pre-primary report by March 12, 1981, the 12-day pre-general report by April 9, 1981, the 30-day post-election report by May 21, 1981. The April 15 quarterly report is waived by the timely filing of the pre-general election report.

FOR FURTHER INFORMATION:

Ms. Judith Corley, Public Information Office, 1325 K Street, N.W., Washington, D.C. 20463, Tel: (202) 523–4068, Toll-free: (800) 424–9530.

Filing Dates for Special Primary and Special General Elections, 4th Congressional District, Michigan

All principal campaign committees of candidates in the special primary election and all other quarterly filing political committees supporting candidates in this special primary election shall file a 12-day pre-election report due on March 12, 1981, with coverage dates from date of candidacy, or last report, through March 4, 1981.

All principal campaign committees of candidates in the special general election and all other quarterly filing political committees supporting candidates in this special general election shall file a 12-day pre-election report due on April 9, 1981, with coverage dates from March 5, 1981 through April 1, 1981, and a 30-day post-election report due on May 21, 1981, with coverage dates from April 2, 1981 through May 11, 1981. The regularly scheduled quarterly report due on April 15, 1981 is waived for those committees which file the 12-day pre-general report.

Dated: February 19, 1981.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 81-6084 Filed 2-23-81; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1800]

Argosy Forwarding Services (Robert Boyd Deaux, d.b.a.); Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Argosy Forwarding Services (Robert Boyd Deaux, dba), 101 Realty Bldg., P.O. Box 2744, Savannah, GA 31402 was cancelled effective February 1, 1981.

By letter dated January 19, 1981, Argosy Forwarding Services (Robert Boyd Deaux, dba) was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder No. 1800 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Argosy Forwarding Services (Robert Boyd Deaux, dba) has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1800 be and is hereby revoked effective Fegruary 1, 1981.

It is ordered, that Independent Ocean Freight Forwarder License No. 1800 issued to Argosy Forwarding Services (Robert Boyd Deaux, dba) be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal **Register** and served upon Argosy Forwarding Services (Robert Boyd Deaux, dba).

Daniel J. Connors,

Director Bureau of Certification & Licensing.

[FR Doc. 81-6173 Filed 2-23-81; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 39]

W.J. Byrnes and Company of New York, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and

on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of W.J. Byrnes and Company of New York, Inc., 30 Vesey St., New York, NY 10007 was cancelled effective February 14, 1981.

By letter dated January 19, 1981, W.J. Byrnes and Company of New York, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder No. 39 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

W.J. Byrnes and Company of New York, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 39 be and is hereby revoked effective February 14, 1981.

It is ordered, that Independent Ocean Freight Forwarder License No. 39 issued to W.J. Byrnes and Company of New York, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon W.J. Byrnes and Company of New York, Inc.

Daniel J. Connors,

Director, Bureau of Certification & Licensing.

[FR Doc. 81-6174 Filed 2-23-81; 8:45am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2135]

Gulf United Freight System; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Gulf United Freight System was cancelled effective February 11, 1981.

By letter dated January 19, 1981, Gulf United Fright System was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder No. 2135 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Gulf United Freight System has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2135 be and is hereby revoked effective February 11, 1981.

It is ordered, that Independent Ocean Freight Forwarder License No. 2135 issued to Gulf United Freight System be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Gulf United Freight System.

Daniel J. Connors,

Director, Bureau of Certification and Licensing.

[FR Doc. 81-6175 Filed 2-23-81; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

American Forwarding, Inc., 5722 John Chaffey Circle, Garden Grove, CA 92645; Officers: James Thompson, President; Sadie Thompson, Secretary/Director

AUT Texas, Inc., 2000 So. Post Oak Road, Suite 2400, Houston, TX 77046; Officers: Peter A. Holzer, President; James T. Hanges, Vice President; Dolores M. Vila, Secretary/Treasurer; Michael Pschoor, Director

Interstate World Forwarders, Inc., 1650 So. Pacific Coast Highway, Associates Bldg., Suite 308, Redondo Beach, CA 90277; Officers: Richard F. B. Goates, President; William G. Thompson, Vice President; James N. McElroy, Secretary/Treasurer

The International Shipping Company, 1001 Connecticut Avenue NW., Suite 628, Washington, D.C. 20036; Officers: Olivier de Chillaz, President/Director; Michel Progent, Treasurer/Director; Collette Progent, Director; Shermin de Chilla, Director; Robert Warren, Vice President; Robert Kolodney, Secretary.

By the Federal Maritime Commission.

Dated: February 17, 1981.

Francis C. Hurney,

Secretary.

[FR Doc. 81-6024 Filed 2-23-81; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2052]

Krupa Shipping Co., (Gary J. Krupa, d.b.a.); Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Krupa Shipping Company (Gary J. Krupa, d.b.a.) was cancelled effective January 8, 1981.

Krupa Shipping Company (Gary J. Drupa, d.b.a.) has failed to furnish a valid replacement bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1877;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2052 be and is hereby revoked effective January 8, 1981.

It is ordered, that Independent Ocean Freight Forwarder License No. 2052 issued to Krupa Shipping Company (Gary J. Krupa, d.b.a.) be returned to the Commission for cancelation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Krupa Shipping Company (Gary J. Krupa, d.b.a.).

Daniel J. Connors,

Director, Bureau of Certification & Licensing.

[FR Doc. 81-6023 Filed 2-23-81; 8:45 am]

BILLING CODE 6730-01-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 as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be appgrieved 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 March 20, 1981.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Lincoln First Bank Inc., Rochester, New York (insurance underwriting activities; New York): to engage through its subsidiary, Lincoln first Life Insurance Company, in underwriting credit life and credit accident and health insurance directly related to extensions of credit by Lincoln First Bank, N.A., Rochester, New York. These activities would be conducted from offices in Phoenix, Arizona, serving the State of New York, including the metropolitan areas of Rochester, Syracuse, Jamestown, Binghamton and White Plains, New York.

B. *Federal Reserve Bank of Dallas* (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

Cullen/Frost Bankers, Inc., San Antonio, Texas (insurance activities; Texas): to engage through its subsidiary, Daltex General Agency, Inc., in the management and administration of insurance directly related to extensions of credit by itself and its subsidiaries, and other types of insurance for its banking subsidiaries. These activities would be conducted from an office in San Antonio, Texas, serving affiliates presently located in Dallas, Houston, San Antonio, and Corpus Christi, Texas.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, February 18, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-6055 Filed 2-23-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies, Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include 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, except as noted, received by the appropriate Federal Reserve Bank not later than March 19, 1981.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. Citicorp, New York, New York (loan servicing activites; 29 states): to engage *de novo*, indirectly through Citicorp Person-to-Person, Inc., and its respective subsidiaries in the servicing, for any person, of loans and other extensions of credit. The aforementioned subsidiaries engage in one or more of the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person, Inc. or its subsidiaries, and to the extent permissible under applicable state insurance laws and regulations; the operating as an industrial loan company; the issuing of thrift certificates and thrift passbook certificates; the making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loan the soliciting and making of consumer installement personal loans, (the "Ready Credit" program); the originating, for its own account or for the account of others, first mortage loans secured by residential or commercial properties; the sale at retail of money orders, travelers checks, U.S. savings bonds and consumer-oriented financial management courses. The aforementioned subsidiaries operate in one or more of the following states: Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Mexico, Nevada, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Virginia, Washington, and Wyoming. This application does not involve a change in service area of any of the offices of the aforementioned subsidiaries since each respective subsidiary will only service loans which it originated or acquired.

2. Horizon Bancorp, Morristown, New Jersey (commercial, consumer, and mortgage financing and leasing activites;

West Coast of Florida): to engage through its subsidiary, Horizon Creditcorp, in inventory floor plan financing; making and acquiring for its own account or for the account of others, term loans and other extensions of credit to purchase yachts at retail and second mortgage financing, yacht loans will be primarily secured by large U.S. produced fiberglass pleasure yachts, aluminum and fiberglass sport boats and marine equipment; and leasing personal property or acting as broker or advisor in leasing such property. These activities would be conducted from an office in Sarasota, Florida, serving Florida's West Coast.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice president) 400 Sansome Street, San Francisco, California 94120:

1. Crocker National Corporation, San Francisco, California (mortage banking, servicing, and real property leasing activities; nationwide): to engage through its subsidiary, Crocker Mortgage Company, Inc., in originating mortgages on single-and multi-family and commercial non-residential properties, selling the mortgages to permanent investors and servicing the loans on behalf of the investors who purchase the mortgage and assisting developers and builders in obtaining construction loans and other types of development loans; acquiring from others, for its own account or for the account of others, entire or partial interests in real estate loans and extensions of credit secure by real estate, including interim, construction, development and long-term real estate loans and related security, creating, acquiring, holding and disposing of, for its own account or the account of others, notes, bonds, debentures, pass-through certificates, or other similar instruments, which are secured or backed directly or indirectly by interests in real estate or in extensions of real estate credit; leasing real property in accordance with the provisions of Section 225.4(a)(6) of Regulation Y; acting as agent, broker or advisor to any persons or entity in connection with transactions of the types described; servicing real estate loans and other extensions of real estate credit owned by others. These activities would be conducted from additional offices of Crocker Mortgage Company, Inc. located in Campbell, Sacramento, Montclair, Fresno, Walnut Creek, Hayward, Santa Monica, Modesto, Stockton, Bakersfield, San Luis Obispo, Santa Rosa, and Irvine, California, and Tempe, Arizona, serving principally California and Arizona and other states nationwide. This application is for the establishment of additional offices to engage in activities for which Crocker Mortgage Company, Inc. has received prior approval. Comments on this application must be received by March 18, 1981.

2. Western Bancorporation, Los Angeles, California (insurance underwriting activites; Washington): to engage through its subsidiary, Western Bancorp Credit Life Insurance Company, in underwriting credit life insurance directly related to extensions of credit by Western Bancorporation and its credit-granting subsidiaries. These activities would be conducted from offices located in Phoenix, Arizona, serving the State of Washington. Comments on this application must be received by March 16, 1981.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, February 17, 1981.

Jefferon A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-6056 Filed 2-23-81; 8:45 am]

BILLING CODE 6210-01-M

Centinel Bank Shares, Inc.; Formation of Bank Holding Company

Centinel Bank Shares, Inc., Taos, New Mexico, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Centinel Bank of Taos, Taos, New Mexico. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 20, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 18, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-6057 Filed 2-23-81; 8:45 am]

BILLING CODE 6210-01-M

Commercial Security Bancorporation; Acquisition of Bank

Commercial Security Bancorporation, Ogden, Utah, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Bear River State Bank, Tremonton, Utah. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 16, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 17, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-6058 Filed 2-23-81; 8:45 am]

BILLING CODE 6210-01-M

J & L Bancorporation, Inc.; Formation of Bank Holding Company

J & L Bancorporation, Glendive, Montana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First Security Bank of Glendive, Glendive, Montana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 20, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 18, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-6039 Filed 2-23-81; 8:45 am]

BILLING CODE 6210-01-M

Osage Bank Services, Inc.; Formation of Bank Holding Company

Osage Bank Services, Inc., Osage, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 64.6 percent or more of the voting shares of Osage Farmer National Bank, Osage, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 19, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 17, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-6060 Filed 2-23-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding company listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 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 the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the 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 March 20, 1981.

A. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

CENTRAL FIDELITY BANKS, INC., Richmond, Virginia (investment advisory activities; Virginia): to engage, through its subsidiary, CFB Advisory Corporation, in acting as an investment financial advisory, providing portfolio investment advice and portfolio management services to individuals, partnerships, corporations, pension and profit sharing plans, private foundations and endowments. These activities would be performed from offices in Lynchburg and Richmond, Virginia, serving the State of Virginia.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, February 18, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-6212 Filed 2-23-81; 8:45 am]

BILLING CODE 6210-01-M

East Texas Bancshares, Inc.; Acquisition of Bank

East Texas Bancshares, Inc., Sulphur Springs, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Peoples National Bank of Sulphur Springs, Sulphur Springs, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 20, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 18, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-6211 Filed 2-23-81; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Valero Energy Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Dennis W. McCarthy. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: February 5, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and

requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-6045 Filed 2-23-81; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Advisory Committee on Preservation; Information Capture, Storage Retrieval, and Perpetuation; Meeting

Notice is hereby given that the Subcommittee on Information Capture, Storage, Retrieval, and Perpetuation of the National Archives and Records Service Advisory Committee on Preservation will meet on March 11, 1981, from 10:00 a.m. to 4:00 p.m., at the National Archives Building, Room 15W1, Washington, D.C. The Subcommittee will discuss preservation micro-filming and liaison with other organizations interested in preservation.

The meeting will be open to the public. For further information call Alan Calmes, 202–523–3159.

Dated: February 19, 1981.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 81-6379 Filed 2-23-81; 11:16 am]

BILLING CODE 6820-26-M

Advisory Committee on Preservation; Long Range Policy and Planning; Meeting

Notice is hereby given that the Subcommittee on Long Range Policy and Planning, of the National Archives and Records Service Advisory Committee on Preservation will meet on March 11, 1981, from 10:00 a.m. to 4:00 p.m., at the National Archives and Records Service, Machine-Readable Archives Division, Room 1100, 711 14th Street, Washington, D.C. The Subcommittee will discuss (a) the size and rate of increase of large collections of machine-readable data within the Federal Government and (b) liaison with other organizations interested in preservation.

The meeting will be open to the public. For further information call Alan Calmes, 202–523–3159.

Dated: February 19, 1981.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 81-6378 Filed 2-23-81; 11:16 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

National Professional Standards Review Council; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 USC App. I), announcement is made of the following Council meeting:

Name: National Professional Standards Review Council.

Date and Time: March 16, 1981 (10:00 a.m. to 5:00 p.m.); March 17, 1981 (9:00 a.m. to 1:00 p.m.).

Place: Auditorium (first floor) HHS North Building, 330 Independence Avenue, SW., Washington, D.C. 20201.

Purpose of the Meeting: The Council was established to advise the Secretary of Health and Human Services on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program. On February 27, 1981, a tentative agenda will be made available to the public.

The meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairperson will allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to Cleo E. Hancock, Jr., Staff Director, National Professional Standards Review Council, Health Standards and Quality Bureau, Room 4520, Health and Human Services North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 245–6097.

Cleo E. Hancock, Jr.,

Staff Director, National Professional Standards Review Council.

[FR Doc. 81-6180 Filed 2-23-81; 8:45 am]

BILLING CODE 4110-35-M

National Institutes of Health

Advisory Committee to the Director, NIH; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, on March 16–17, 1981, at the National Institutes of Health, Bethesda, Maryland. The meeting will take place from 8:30 a.m. to 5:30 p.m. on March 16, and from 8:45 a.m. to 12:45 p.m. on March 17, in Building 31, Conference Room 6, C Wing. The entire meeting will be open to the public.

The meeting will focus on relationships among the Government, the private sector, and universities—a continuation of earlier Committee discussions on Government-university relationships. The Committee's meeting of May 1980 centered on indirect costs and other cost and accountability issues. At the October 1980 meeting, several alternative modes for funding health research activities were considered. At the latter meeting NIH policies governing awards to commercial organizations were also briefly discussed; it was suggested at that time that the Committee should explore further the relationship with industry. This will be done at the forthcoming meeting.

Presentations at the meeting will be made by representatives from industry, selected research institutions, and the Federal Government. The first day will be devoted to an overview of Congressional and Administration initiatives and patent and technology policies, with an examination of implications for the Department of Health and Human Services patent policies. A review of NIH programs with the academic-industrial sector will be followed by a session on industry support for developmental health research and an examination of respective roles of Government and industry in consideration of a Department of Justice antitrust guide on research joint ventures.

The second day will be devoted to corporate support for basic health research at universities including an examination of cooperative research relationships at universities. As part of the examination the Committee will consider the Report of the National Commission on Research, *Industry and Universities: Developing Cooperative Research Relationships in the National Interest.* The Executive Secretary, Joseph G. Perpich, M.D., J.D., National Institutes of Health, Building 1, Room 137, Bethesda, Maryland 20205, 301–496–3152, will furnish summaries of the meeting, rosters of Committee members and guests, and substantive program information.

Dated: February 5, 1981.

Thomas E. Malone, Ph. D.,

Deputy Director, NIH.

[FR Doc. 81-6041 Filed 2-23-81; 8:45 am]

BILLING CODE 4110-08-M

Behavioral Medicine Study Section; Amended Notice of Meeting

Notice is hereby given of a change in the meeting date of the Behavioral Medicine Study Section, Division of Research Grants, which was published in the **Federal Register** on January 21, 1981 (46 FR 6073).

The Behavioral Medicine Study Section was to have met March 4–6, 1981, but will meet March 3–6, 1981, at 9:00 a.m. at the Georgetown Holiday Inn, Washington, DC, the same time and location for which it was originally scheduled.

The meeting will be open to the public for approximately one hour at the beginning of the first session of the first day of the meeting.

Dated: February 10, 1981.

Thomas E. Malone, Ph. D.,

Deputy Director, NIH.

[FR Doc. 81-6042 Filed 2-23-81; 8:45 am]

BILLING CODE 4110-08-M

Biomedical Research Support Subcommittee, General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Research Support (BRS) Subcommittee, General Research Support Review Committee, Division of Research Resources, March 30–31, 1981, Conference Room 7, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public from 9:00 a.m. on March 30 to approximately 5:00 p.m. and from approximately 8:30 a.m. on March 31 to adjournment for the discussion of (1) the General Accounting Office (GAO) letter report recommending the establishment of measurable objectives for the BRS Program; (2) DRR's preliminary response to the GAO letter report; (3) BRS portion of the DRR presentation in the fiscal year 1982 budget to the Congress showing a competitive "Biomedical Shared Instruments" activity; (4) DRAFT Guidelines of the shared research instruments activity. Attendance by the public will be limited to space available.

Mr. James Augustine, Information Officer, Division of Reseach Resources, Room 5B13, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Thomas G. Bowery, Program Director, Biomedical Research Support Program, Room 5B23, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6743, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs, No. 13.337, Biomedical Research support, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Thomas E. Malone, Ph. D.,

Deputy Director, NIH.

[FR Doc. 81-6043 Filed 2-23-81; 8:45 am]

BILLING CODE 4110-08-M

National Institutes of Health Study of the Mandatory Retirement Age for Commercial Airline Pilots; Report of the Institute of Medicine of the National Academy of Sciences; Notice of Availability

AGENCY: National Institutes of Health.

ACTION: Notice of availability of the Institute of Medicine report and invitation to comment.

SUMMARY: A report is being prepared for the National Institute on Aging (NIA) of the National Institutes of Health (NIH) by the Institute of Medicine (IOM) of the National Academy of Sciences (NAS) on the medical and scientific issues relevant to the mandatory requirement of commercial airline pilots at age 60. It is anticipated that this report will be completed and submitted to the NIA on March 31, 1981. The NIA plans to make copies of this report available, upon request, and invites technical comments from responsible parties.

DATE: Single copies of the IOM report will be available from NIA after April 3, 1981. Comments on the report must be received by May 4, 1981.

ADDRESS: Requests for the IOM report and comments on it may be sent to Office of the Deputy Director, National Institute on Aging, Building 31, Room 2C02, National Institutes of Health, Bethesda, Maryland 20205.

FOR FURTHER INFORMATION CONTACT: Ms. Lily O. Engstrom, Office of the Deputy Directory, National Institute on Aging, Building 31, Room 2C06, Bethesda, Maryland 20205, (301) 496–5608.

SUPPLEMENTARY INFORMATION: Pub. L. 96–171, enacted on December 29, 1979, requires the Director of NIH, in consultation with the Secretary of Transportation, to conduct a study to determine—

(1) Whether an age limitation which prohibits all individuals who are sixty years of age or older from serving as pilots is medically warranted;

(2) Whether an age limitation which prohibits all individuals who are older than a particular age from serving as pilots is medically warranted;

(3) Whether rules governing eligibility for first- and second-class medical certification, as set forth in part 67 of title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act), are adequate to determine an individual's physical condition in light of existing medical technology;

(4) Whether rules governing the frequency of first- and second-class medical examinations, as set forth in part 67 of title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act), are adequate to assure that an individual's physical condition is being satisfactorily monitored; and

(5) The effect of aging on the ability of individuals to perform the duties of pilots with the highest level of safety.

The Director of NIH shall complete this study and submit a report on its results to Congress.

The NIH, with the NIA serving as the lead agency, awarded a contract to the Institute of Medicine to provide an objective examination, summary and assessment of existing scientific knowledge that is relevant to the five points in Pub. L. 96–171. Technical comments on this report will be reviewed and considered by the NIH in the process of preparing the report required by the legislation.

Dated: February 12, 1981.

Thomas E. Malone, Ph. D.,

Deputy Director, NIH.

[FR Doc. 81-6047 Filed 2-23-81; 8:45 am]

BILLING CODE 4110-08-M

Study of the Health-Related Effects of Marijuana Use

The Insititute of Medicine (IOM) of the National Academy of Sciences (NAS) is conducting an independent assessment of the physiological and behavioral effects of marijuana use, and of Federal research programs in this area. The study is being funded by the Department of Health and Human Services (National Instititutes of Health).

The IOM proposes to review and analyze the existing scientific evidence that may suggest hazards to the health and safety of marijuana users. Data suggesting certain health benefits and medical utility would also be examined. The IOM study would assess Federal research programs in this area, delineate important directions for further

investigation, and produce suggestions for improving the quality and utility of future research.

A Federal Interagency Committee, created under the authority of the Director, NIH, provides for appropriate coordination with the IOM in this effort. The Committee consists of representatives of NIH; the Alcohol, Drug Abuse, and Mental Health Administration; the Office of the Assistant Secretary for Health; and the Office of the Assistant Secretary for Planning and Evaluation, HHS. The Chairman of the Committee is Dr. Carl M. Leventhal, Deputy Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases; and the Executive Secretary and Project Officer is Dr. Joseph G. Perpich, Asssociate Director for Program Planning and Evaluation, NIH.

Ultimate responsibility for the study rests with a steering committee appointed by the President of the IOM. The IOM Committee to Study the Health-Related Effects of Marijuana Use, representing a diverse group of distinguished scientists, clinicians, and scholars, has named several panels, each chaired by a member of the steering committee, to review the state of knowledge about marijuana and the effectiveness of current research efforts.

The purpose of this notice is to solicit written information and data from the public and from professional groups on any aspect of the proposed study. All submitted material will be incorporated in the record of the IOM Committee activities. Any interested person may submit written views, which will become part of the IOM Committee record. Supplementary information, on which comments are invited, is provided below.

Views should be in writing; should be addressed to Dr. Queta C. Bond, or Dr. Linda Dujack, Institute of Medicine, National Academy of Sciences, 2101 Constitution Avenue, N.W., Washington, D.C. 20418; and must be postmarked before April 1, 1981.

For further information, contact Dr. Bond [(202–389–6947] or Dr. Dujack [(202)–389–6834].

Supplementary Information

Contradictory results and varying interpretations of research data make it easy to cite "evidence" that marijuana is either extremely dangerous or essentially innocuous. Scientific controversy and public confusion persist in spite of a number of reports on marijuana and health from authoritative agencies and organizations. (*1,6*)

Recent social developments have added some urgency to the need for reassessment of data and for construction of the best possible estimates of actual hazards and potential risks to various types of marijuana users. In recent reviews, the following trends have been noticed.

- Apparently, the proportion of adolescents who regularly use marijuana increased substantially in the late 1970s. Ten percent of high school seniors now report use of this drug daily.(*4*)
- Among 8- to 11-year-olds and 12- to 17-year-olds, frequency and prevalence of use have increased markedly in the past few years.(*3,4,7*)
- The quality of marijuana reaching the street has "improved" because of Colombian and other new sources. Thus, many are using a substance that is 2 to 10 times stronger than that prevalent a few years ago. increased availability of hashish and "hash oil" is also bringing higher concentrations of the active chemical, tetrahydracannabinol (THC), to contemporary users.(*7,8*)
- A majority of marijuana users say they sometimes drive when intoxicated with marijuana.(*2*)

While these social and epidemiological trends were developing in the middle and late 1970s, further scientific explorations with potential implications for health and safety risks of marijuana use continued. The following illustrative findings have emerged:

- Several reports assert that psychomotor skills related to driving motor vehicles are impaired by marijuana intoxication. Because cannabinoids are long-active drugs (half-life of THC is over two days), some of these effects are demonstrable when the user is no longer "high."(*4*)
- Suppression by marijuana of male sex hormone (testosterone) and two pituitary hormones involved in reproductive physiology (luteinizing hormone and follicle-stimulating hormone) has been reported in a number of different studies—in humans and animals. Contradictory results have also been found. Chronic, heavy use adversely affects human spermatogenesis, resulting in an increased proportion of immobile or abnormally formed spermatozoa.(*4,6,8*)
- When smoked heavily and chronically, marijuana, like cigarettes, adversely affects pulmonary functioning. Marijuana smoke may be potentially carcinogenic. Because of poor combustibility, it may even contain a higher concentration of carcinogenic hydrocarbons than does tobacco smoke.(*4,8,9*)
- Reports continue to accumulate asserting adverse effects of marijuana on DNA synthesis, immunological capability, short-term memory, etc. In some animal studies, long-term exposure apparently caused irreversible adverse effects upon brain functions and structure.(*6,8*)

The interpretation of findings like these is even more controversial than the findings themselves. It has been difficult, for example, to assess reports of marijuana's biological impact on hormonal systems and cell metabolism (which could be of great importance to pregnant women and to children and youth who have not yet reached physical maturity). Studies on effect of dose and duration of action on motor vehicle driving skills need to be carefully assessed, since questions have been raised about risks to the safety of others, such as passengers, pedestrians, motorists, and riders of common carriers. Another complex area is multiple drug use, including alcohol, which is a source of potential danger for a subgroup of marijuana users. The pharmacological interactions of these drugs need to be appraised.

Evidence of potential health benefits—e.g., in treatment of glaucoma, nausea (particularly that associated with chemotherapy of certain cancers), seizure disorders, or asthma—also needs to be assessed.(*10*) There is a need to address claims that marijuana use may be psychosocially beneficial in some ways for certain people, and that, for some users, adult adjustment seems to have been relatively unaffected by a history of heavy consumption of marijuana during adolescence.

Some children and adolescents limit themselves to experimenting with marijuana in an exploratory way. Others go on to long-term use. For many, the psychosocial impact of chronic use in the junior and senior high school years may have ramifications for adult patterns of coping and adaptation. These fateful decisions are often made in early adolescence in the absence of adequate information from credible adult sources and under the influence of considerable peer pressure.

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Dated: February 19, 1981.

Thomas E. Malone, Ph.D.,

Deputy Director, NIH.

[FR Doc. 81-6046 Filed 2-20-81; 8:45 am]
BILLING CODE 4110-48-M

Public Health Service

Health Systems Agencies and State Health Planning and Development Agencies; Certificate of Need Reviews

AGENCY: Health Resources Administration, Public Health Service, HHS.

ACTION: Notice of Adjustment Factor for Certificate of Need Review Expenditure Minimums.

SUMMARY: The Health Planning and Resources Development Amendments of 1979 (Pub. L. 96-79) as amended by the Health Programs Extension Act of 1980 (Pub. L. 96-538) required the Secretary to designate by regulation (1) an index maintained or developed by the Department of Commerce which could be used by States to adjust the minimum threshold for capital expenditures and (2) an index which could be used by States to adjust the minimum threshold for annual operating costs, in the State certificate of need programs. The Secretary designated the Department of Commerce Composite Construction Cost Index for both purposes in the certificate of need final regulations published October 21, 1980 (42 CFR 123.401). This notice provides the change in the Department of Commerce Composite Construction Cost Index from October 1, 1979 to October 1, 1980. On October 1, 1979, the index was fixed at 206.6. On October 1, 1980, the index was fixed at 226.5. This 19.9 point change represents a 9.6 percent increase. States that are authorized to adjust the capital expenditure and operating cost expenditure minimums may increase them up to 9.6 percent.

FOR FURTHER INFORMATION CONTACT: Thomas C. Croft, Jr., Acting Director Division of Regulatory Activities, Bureau of Health Planning, 3700 East-West Highway, Room 6-50, Hyattsville, Maryland 20782, (301) 436-6134.

Dated: February 18, 1981.

Robert Graham,

Acting Administrator.

[FR Doc. 81-6167 Filed 2-23-81; 8:45 am]
BILLING CODE 4110-83-M

Social Security Administration

Title II and Title XVI Research Grants; Availability

The Commissioner of Social Security gives notice that fiscal year (FY) 1981 funds are available for research grants on improving the Old-Age, Survivors, and Disability Insurance (OASDI) and Supplemental Security Income (SSI) programs. The Social Security Administration (SSA) is making these grants, authorized under sections 702 and 1110 of the Social Security Act, available to qualified public and private nonprofit agencies and organizations which include institutions of higher learning. Applications for these grants must be received by May 10, 1981.

General Policy Considerations

The OASDI and SSI programs are the largest income-security programs in the United States. The OASDI program, which covers most persons who earn wages or self-employment income, provides protection against income loss caused by death, disability and retirement. The SSI program provides supplemental income to the needy aged, blind and disabled.

The Social Security Administration needs to continue high caliber research in the income security area to keep pace with the changing composition and needs of contemporary society. In general, SSA is interested in those research projects that develop and implement analytical models for comparing the merits of alternative methods for carrying out the income security goals.

The personnel for a project should have background in an academic discipline that can contribute to wider understanding of issues in income security. These disciplines can include but are not limited to—economics, sociology, demography, industrial relations, statistics, econometrics, psychology, anthropology, systems analysis, and communications.

Priority Areas for Research Funds

Research projects must be directed toward priorities and strategies that are derived from SSA's major policy and program issues. The high priority areas for section 702 and section 1110 research funding are:

(a) Analyses that can contribute to the specification of long-run simulation models dealing with the labor force participation of women and analyses related to women's coverage and eligibility for public income maintenance and private pension plans. Among the topics of interest are the potential impact of a change in the social security dependency benefit provisions on women's labor force participation and the anticipated effect that changes in dependent benefits might have on individual and family retirement planning and economic status.

(b) Studies of the factors that affect the social, psycological, occupational and financial situations of the aged, the timing of their retirement, and the adequacy of their retirement income. This includes analyses of program implications related to issues such as: the delayed retirement options, alternatives and incentives available to the population at retirement age; the potential effect of eliminating the retirement test; the factors related to delaying retirement; the relationship between health status and the timing of retirement; and, the availability of and factors related to flexible work styles for the aged. Also, there is interest in analyses on the impact of inflation on the economic behavior and circumstances of the aged, including expenditure patterns and labor force participation, asset accumulation and spending of savings, and changes in the absolute and relative size and share of income from various sources.

(c) An examination of the potential short and long-run impacts of immigration and immigration policy on social security and related programs. The social security program financing pressures anticipated after the year 2000 could be offset somewhat by increased immigration. However, the potential effect of increased immigration on demands for other service and benefit programs also must be taken into account.

(d) Analysis of people's need for income support, health services, retraining or relocation assistance in relation to long and short-term disability; analyses of psychological, economic, and social barriers that may affect the ability of disabled persons to become rehabilitated and reemployed.

(e) Comparative studies and analyses of other countries' social security concepts and programs, including studies of alternatives income maintenance systems and their effectiveness in providing adequate replacement earnings and in preventing poverty among non-working and low-income groups. Also, comparative analyses of the effects alternative social security financing methods may have on a nation's fiscal stability, economic growth, employment, and income distribution.

(f) SSA invites proposals for research that use available SSA data bases such as the Retirement History Study, Survey of Young Survivors, and the Surveys of the Disabled. These separate data bases contain material on the work and retirement related characteristics of Americans currently or potentially eligible for program benefits. Included are data on size, type and source of income, work activity and factors related to work capacity, health costs and other expenditures, living arrangements and family relations. Of interest are analyses of the events influencing the timing of retirement or the occurrence of disability; analyses of the economic circumstances and behavior of the aged, disabled, survivors and low-income populations; and assessment of the potential impact of proposed changes in social security.

Availability and Duration of Funding

Projects are financed under the authority of sections 702 and 1110 of the Social Security Act. For FY 1981, SSA anticipates allocating $400,000 for new Section 702 and Section 1110 projects. Grants are awarded for a period of one year's duration but may be continued on a non-competitive basis for more than one and up to five years duration if the grantee demonstrates acceptable progress, there is continuing availability of funds, and there is continuing relevance for the research. The amounts that will be awarded will vary, depending upon the research activity.

Basic Criteria for Funding New Projects

We will evaluate each project application under the following criteria:

1. The research or demonstration design of the project demonstrated by the appropriateness of the work statement and the technical approach to the area of inquiry (this includes clarity of goals, the use of scientifically valid methods and data, and the scheduling of tasks and milestones).

2. The application should list the qualifications of the project personnel and show how these qualifications make them capable of competently performing their assigned tasks. The application should also show the project organization i.e., who will be responsible for what portions of the project and the lines of authority in the project.

3. The budget must be detailed with justifications and explanations for the requested amounts. Estimated costs must be reasonable considering the scope of the project.

4. Demonstration projects must have an evaluation component that describes the data collection and analysis procedures for quantitatively assessing achievement of objectives. This evaluation component must be distinguished from activities which provide information to the project staff on their progress toward meeting objectives.

5. The applicant organization must have adequate facilities and resources to carry out the project.

6. The plans for using the project's results, what the deliverable products will be, and the scheduled delivery dates of reports or products, should be discussed.

7. The application must demonstrate the applicant's willingness to comply with the human subjects regulations by including, with the application, a completed form HEW-596 (Rev. 1975) "Protection of Human Subjects" (45 CFR Part 46).

Review of Application

SSA will first screen an application for its relevance to SSA's interests. If judged irrelevant, the application is returned to the applicant. If judged relevant, the application is reviewed by a review panel of not less than three experts. This panel completes a written assessment of each application and ranks each application according to a suggested order for approval.

Application Procedures

8. Application forms: Application kits are available from: Social Security Administration, Division of Contracting and Procurement, Post Office Box 7696, Gwynn Oak Branch, Baltimore, Maryland 21207; Telephone: (301) 594-0284. Grants Management Officer: Mr. Lawrence Pullen.

Additional information about these grants programs is available at the above address upon request. In order to insure receipt of the proper application and guidelines, please fully describe the type of project.

9. Grant Policies: Approving a project for a grant is made by a competitive process based on a choice of proposals submitted in response to this notice. The application kit explains the grantee's responsibilities, the grant award and payment procedures, and any special provisions and assurances.

10. Closing Dates: In order to be considered for a grant using FY 1981 funds, an application must be received by the Division of Contracting and Procurement (at the address shown above) no later than May 10, 1981.

An application will be considered as received on time if—(a) the postmark shows that the application was sent by registered or certified mail on or before May 10, 1981, or (b) the application is received by SSA in Baltimore, Maryland on or before May 10, 1981. The date of receipt by SSA in Baltimore, will be established either by the date stamped on the application by the SSA mailroom or other documentary evidence of the date of SSA receipt.

(Catalog of Federal Domestic Assistance Program No. 13.812—Assistance Payment—Research)

February 10, 1981.

Herbert R. Doggette, Jr.,

Acting Commissioner of Social Security.

[FR Doc. 81-6032 Filed 2-23-81; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Jackson Zoological Park, Jackson, Mississippi

The applicant requests a permit to purchase in interstate commerce one captive-bred jaguar (*Panthera onca*) from the Rio Grande Zoological Park, Albuquerque, New Mexico for enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-7660. Interested persons may comment on this application (March 26, 1981) by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: February 18, 1981.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 81-6182 Filed 2-23-81; 8:45 am]

BILLING CODE 4310-55-M

HERITAGE CONSERVATION AND RECREATION SERVICE

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before February 13, 1981. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 11, 1981.

Carol Shull,

Acting Chief, Registration Branch.

ALASKA

Kodiak Division

Larsen Bay vicinity, *KOD-171 Site.*
Larsen Bay vicinity, *KOD-233 Site.*

CALIFORNIA

NEWLANDS RECLAMATION (TRUCKEE-CARSON PROJECT) THEMATIC RESOURCES. Reference—see individual listings under Placer and Nevada Counties. Also in Nevada.

Nevada County

Truckee vicinity, *Boca Dam (Newlands Reclamation (Truckee-Carson Project) Thematic Resources),* NE of Truckee.

Placer County

Tahoe City, *Lake Tahoe Dam (Newlands Reclamation (Truckee-Carson Project) Thematic Resources)* Lake Tahoe.

MICHIGAN

Oakland County

Pontiac, *Eastern Michigan Asylum Historic District,* 140 Elizabeth Lake Rd.

NEVADA

NEWLANDS RECLAMATION (TRUCKEE-CARSON PROJECT) THEMATIC RESOURCES. Reference—see individual listings under Churchill, Storey and Washoe Counties. Also in Calif.

Churchill County

Fallon vicinity, *Carson River Diversion Dam (Newlands Reclamation (Truckee-Carson Project) Thematic Resources),* Carson River.

Fallon vicinity, *Lahontan Dam and Power Station (Newlands Reclamation (Truckee-Carson Project) Thematic Resources),* SW of Fallon.

Fallon vicinity, *T Canal (Newlands Reclamation (Truckee-Carson Project) Thematic Resources),* N of Fallon.

Truckee Canal (Newlands Reclamation (Truckee-Carson) Thematic Resources), S to Lahontan Dam (also see listing under Storey County).

Fallon vicinity, *V Canal (Newlands Reclamation (Truckee-Carson Project) Thematic Resources),* S of Carson River.

Fallon vicinity, *V Canal Powerplant (Newlands Reclamation (Truckee-Carson Project) Thematic Resources),* W of Fallon on V Canal.

Storey County

Sparks vicinity, *Derby Diversion Dam (Newlands Reclamation (Truckee-Carson Project) Thematic Resources),* E of Sparks (also see listing under Washoe County).

Truckee Canal (Newlands Reclamation (Truckee-Carson) Thematic Resources), E from Derby Dam (also see listing under Churchill County).

Washoe County

Sparks vicinity, *Derby Diversion Dam (Newlands Reclamation (Truckee-Carson Project) Thematic Resources),* E of Sparks (also see listing under Storey County).

SOUTH DAKOTA

Minnehaha County

Sioux Falls, *South Dakota School for the Deaf,* 1800 E. 10th St.

WISCONSIN

Florence County

Florence vicinity, Fern School, SW of Florence on WI 101.

Marinette County

Amberg, *Amberg Town Hall,* Grant St.

Oneida County

Rhinelander, *Oneida County Courthouse,* S. Oneida Ave.

Racine County

Racine, *Racine Public Library,* 701 S. Main St.

[FR Doc. 81-5750 Filed 2-23-81; 8:45 am]

BILLING CODE 4310-03-M

Bureau of Land Management

Casper District Advisory Council; Meeting

Notice is hereby given in accordance with Public Law 92-463, that a meeting of the Casper District Advisory Council will be held on March 26, 1981.

The meeting will begin at 9:00 a.m. in the conference room of the Casper District Office, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming.

The agenda will include: (1) review of cultural resource inventory procedures; (2) review of areas of critical environmental concern and (3) arrangements for the next meeting.

The meeting will be open to the public. Interested persons may make oral statements or file written statements for the council's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601 by March 20, 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 meeting will be maintained in the district office and be available for public inspection within 30 days following the meeting.

Robert T. Dale,

Assistant District Manager.

[FR Doc. 81-6376 Filed 2-23-81; 10:42 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29560]

Chicago, Madison and Northern Railway Co.; Acquisition and Operation of a Portion of a Line of Railroad Between Freeport, IL and Madison, WI

Chicago, Madison and Northern Railway Company (CM&N), represented by Mr. John F. Jenswold, President, Chicago, Madison and Northern Railway Company, 16 N. Carroll Street, Suite 900, Madison, WI and Francis G. McKenna, Attorney, 1000 16th Street, N.W., Washington, DC 20036, hereby gives notice that on the 14th day of January, 1981, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 10901 for a decision approving and authorizing it to operate over a portion of track formerly owned by the Illinois Central Gulf Railway Company (ICG) between Freeport, IL and Madison, WI, a distance of approximately 59 miles, in Green and Dane Counties, WI and Stephenson County, IL.

This section of tracks was the subject of Commission proceeding AB-43 (Sub-No. 28F) in which the Commission approved its abandonment. The line now serves thirty-seven shippers and approximately 1,000 cars moved over the line in the last year. Approval of the application will permit continued rail service to the existing patrons and shippers and enhance the opportunities for the continued economic growth of the involved area.

Wisconsin Department of Transportation and South Central

Wisconsin Transit Commission have acquired the line by purchase from the Illinois Central Gulf Railroad.

In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), as amended by the Commission's decision in Ex Parte No. 55 (Sub-No. 22), *Revision of National Environmental Policy Act Guidelines*, 363 I.C.C. 653 (1980), 45 Fed. Reg. 79810 (December 2, 1980), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of publication of this notice in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6214 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP1-38]

Motor Carriers; Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 255 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions,and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the 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 protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

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 Number 1, Members Carleton, Joyce and Jones.

Dated: February 12, 1981.

Agatha L. Mergenovich,

Secretary.

MC 150511F, filed November 17, 1980. Applicant: BETTER HOME DELIVERIES, INC., 3700 Park East Dr., Cleveland, OH 44122. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting (1) *such commodities* as are dealt in or used by retail department stores, between points in the U.S., under continuing contract(s) with (a) J. C. Penney company, Inc., of Mountainside, NJ, (b) Bamberger's, Division of R. H. Macy Inc., of Newark, NJ, and (c) Hecht's, Division of The May Department Stores Company, of Washington, DC, and (2) *wtater*, in containers, *empty containers, and materials, equipment and supplies* used in the distribution of water, between points in the U.S., under continuing contract(s) with Pine Hill Crystal Spring Water Co., Div. of The Nestlé Company, Inc., of White Plains, NY.

Note.—This application is directly related to MC-F-14505F, published in this same **Federal Register** issue.

MC 153601, filed January 13, 1981. Applicant: ITO LTD., 121 West Doty St., Madison, WI 53703. Representative: W. A. Myllenbeck, 1947 West County Road C, St. Paul, MN 55113. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Essex Group, Inc., of Fort Wayne, IN.

Note.—This application is directly related to MC-F-14551, published in this same **Federal Register** issue.

MC 153891, filed February 4, 1981. Applicant: FLEXIBLE TRANSPORT, INC., 610 High St., Wisconsin Rapids, WI 54494. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. transporting *general Commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Commercial Shearing, Inc., of Youngstown, OH.

Note.—This application is directly related to MC-F-14535 published in this same **Federal Register** issue.

[FR Doc. 81-6216 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decision Volume No. OP4-230]

Motor Carriers; Decision-Notice

Decided: February 13, 1981.

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers

pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of an application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

Agatha L. Mergenovich,

Secretary.

MC-14549, filed January 13, 1981. COOPER MOTOR LINES, INC. (Cooper) (P.O. Box 2820, Greenville, SC 29602)—Continuance in control—PARK PLACE EQUIPMENT SERVICES, INC. (Park) (P.O. Box 2820, Greenville, SC 29602). Representative: Francis W. McInerny, 1000 16th St., N.W., Suite 502, Washington, DC 20036. Cooper seeks authority to continue in control of Park upon the institution by Park of operations in interstate or foreign commerce, as a motor contract carrier. Calhoun Lemon, Chairman of the Board, and Treasurer, also seeks to continue in control. Park has filed an application in MC-153606 to transport general commodities, between points in the US. Cooper is a motor common carrier pursuant to certificates issued in MC-47171 and sub-numbers thereunder. Calhoun Lemon also has an interest in Southern Bulk Haulers, Inc. (MC-119560); The Geo. A. Rheman Co., Inc. (MC-103191); and Cement Transport, Inc. (MC-138646). (Hearing site: Washington, DC or Atlanta, GA.)

Note.—Park has filed as a directly related application its initial contract carrier application. This application, docketed No. MC-153606, is published in this same **Federal Register** issue.

[FR Doc. 81-6217 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 400]

Motor Carriers; Decision-Notice

Decided: January 22, 1981.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall

promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified 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.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier sevice will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically 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 those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 134979 (Sub-16F), filed April 7, 1980. Applicant: DAGGETT TRUCK LINE, INC., Frazee, MN 56544. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting: (1) *agricultural commodities*, the transportation of which is otherwise exempt from economic regulation under Subtitle IV of 49 U.S.C. 10526 (formerly Sec. 203(b)(6) of the Interstate Commerce Act), in mixed loads with the commodities named in (2) below, (2) *feed, feed ingredients and related materials, equipment and supplies*, and (3) *salt*, in bags, between points in MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142268 (Sub-43F), filed June 19, 1980 (Republication). Applicant: GORSKI BULK TRANSPORT, INC., 843 Central Avenue, Windsor, Ontario N8Y 4S2. Representative: William H. Shawn, Suite 501, 1730 M Street, NW., Washington, DC 20036. Transporting *alcoholic liquors, alcohol, alcohol distilled spirits, neutral spirits, brandy cordials and wine* (1) between Bardstown, KY on the one hand, and on the other, Fort Smith, AR, Plainfield, IL, New Orleans, LA, Detroit, MI, Scobeyville, NJ, and Burlingame, CA, (2) between the ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, Fort Smith, AR, Plainfield, IL, Bardstown, KY, and New Orleans, LA, (3) between Silverton, OH, on the one hand, and, on the other, Fort Smith, AR, Plainfield, IL, Bardstown, KY, New Orleans, LA, and Scobeyville, NJ, (4) between the ports of entry on the international boundary line between the U.S. and the Republic of Mexico at points in TX, on the one hand, and, on the other, Fort Smith, AR, (5) between the ports of entry at points in NY, PA, NJ, MD, FL, AL, LA, on the one hand, and, on the other, Fort Smith, AR, Silverton, OH, Plainfield, IL, Bardstown, KY, and Scobeyville, NJ, (6) between Roberta, GA, Auburndale and Lake Alfred, FL, on the one hand, and, on the other, Fort Smith, AR, and (7) between points in CA on the one hand, and, on the other, Fort Smith, AR, Plainfield, IL, New Orleans, LA, and Bardstown, KY, restricted in (1), (2), (3), (4), (5), and (6) to traffic originating at or destined to the facilities used by Hiram Walker & Sons, Inc.

Note.—This republication changes the commodity description.

[FR Doc. 81-6218 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OPY-3-001]

Motor Carriers; Decision-Notice

Decided: February 13, 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** 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 its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant 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. 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.

By the Commission, Review Board No. 3, Members Parker, Fortier and Hill participating.

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".

MC 107515 (Sub-1413), filed February 9, 1981. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. (404) 262-7955. Transporting *general commodities* (except classes A and B explosives), between the facilities of American Cyanamid Company, on the one hand, and, on the other, points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6219 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539. 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 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant 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 its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant 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. 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 interest 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".

Volume No. OP4-017

Decided: February 17, 1981.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones.

MC 152697F, filed November 18, 1980, previously noticed in the **Federal Register** of December 10, 1980. Applicant: AMERICAN TRUCK LINES, INC., 201 Laurel Lane, Broomall, PA 19008. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting (1) *foodstuffs*, (2) *meats, meat products, meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions of Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and (3) *materials, equipment, and supplies* (except commodities in bulk) used in their manufacture and distribution, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

Note.—The purpose of this republication is to include the commodity of foodstuffs.

Volume No. OP4-018

Decided: February 17, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 153367F, filed December 17, 1980, previously noticed in the **Federal Register** issue of January 16, 1981, and republished this issue. Applicant: TRANSX, LTD., 2595 Inkster Blvd., Box 36, Group 200, R.R. 2, Winnipeg, Manatoba, Canada R3C2E6. Representative: Robert L. Cope, Suite 501, 1730 M St. NW., Washington, DC 20036. In foreign commerce only, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between ports of entry on the international boundary line between the U.S. and Canada, in MI, MN, and ND, on the one hand, and, on the other, points in IA, IL, KS, MO, MI, MN, ND, NE, SD, and WI.

Note.—The purpose of this republication is to correctly state the territorial description.

Volume No. OP4-019

Decided: February 17, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. (Member Hill not participating.)

MC 136077 (Sub-25), filed January 13, 1981, previously published in the **Federal Register** issue of January 29, 1981, and

republished this issue. Applicant: REBER CORPORATION, 2216 Old Arch Rd., Norristown, PA 19401. Representative: Richard L. Thurston, One Franklin Plaza, Philadelphia, PA 19102. Transporting *materials and supplies* used in the manufacture of iron and steel articles, between points in Middlesex County, NJ, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, WV, WI, and DC.

Note.—The purpose of this republication is to correctly state the territorial description.

Volume No. OP4-024

Decided: February 13, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

MC 14277 (Sub-3), filed January 28, 1981. Applicant: CHICAGO-AUTORA MOTOR SERVICE, INC., P.O. Box 31, Aurora Ave., Lane, Aurora, IL 60507. Representative: Paul J. Maton, 10 South LaSalle St., Suite 1620, Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives), between points in MN, IA, MO, MI, WI, IL, IN, OH, and KY.

MC 14977 (Sub-1), filed January 19, 1981. Applicant: THE PAUL J. BUCCHERI COMPANY, 181 Pane Rd., Newington, CT 06111. Representative: John E. Fay, Esq., 663 Maple Ave., Hartford, CT 06114. Transporting *those commodities which because of their size or weight require the use of special handling or equipment*, between points in NY, RI, NH, and MA, on the one hand, and, on the other, points in CT.

MC 27817 (Sub-174F), filed January 9, 1981. Applicant: H. C. GABLER, INC., R.D. 3, P.O. Box, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. Transporting *general commodities* (except classes A and B explosives), between the facilities of the General Electric Company, on the one hand, and, on the other, St. Louis, MO, and points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation at applicant's request, of Certificate No. MC-27817 (Sub-150F).

MC 42487 (Sub-1023), filed January 23, 1981. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Transporting *general commodities* (except Classes A and B explosives), serving points in Lawrence County, TN, as off-route points in connection with carrier's otherwise authorized regular route authority.

Note.—Applicant intends to tack with its existing authority.

MC 42487 (Sub-1024), filed January 29, 1981. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Transporting *general commodities* (except Classes A and B explosives), serving points in Washington County, VT as off-route points in connection with applicant's existing regular-route operations.

NOTE.—Applicant intends to tack to its existing authority and any authority it may acquire in the future.

MC 42487 (Sub-1025), filed January 30, 1981. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Transporting *general commodities* (except Classes A and B explosives), serving points in Escambia County, FL as intermediate or off-route points in connection with carrier's otherwise authorized regular-route operations.

MC 61977 (Sul -38), filed January 21, 1981. Applicant: ZERKLE TRUCKING CO., 2400 Eighth Ave., P.O. Box 5628, Huntington, WV 25703. Representative: N.W. Bowen, Jr. (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with L.B. Foster Company, of Norcross, GA.

MC 93147 (Sub-22), filed January 30, 1981. Applicant: DELTA TRANSPORT CORPORATION, 840 Union St., P.O. Box 546, West Springfield, MA 01089. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. 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.

MC 119777 (Sub-515), filed February 3, 1981. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85-East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities* (except classes A and B explosives), between points in St. Charles County, MO, on the one hand, and, on the other, points in the U.S.

Note.—Applicant states it intends to tack the requested authority with its regular route authority in MC 119777 Sub 168.

MC 119777 (Sub-516), filed February 3, 1981. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85-East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities* (except classes A and B explosives), between points in St. Clair County, IL, on the one hand, and, on the other, points in the U.S.

Note.— Applicant states it intends to tack the requested authority with its regular route authority in MC 119777 Sub 168.

MC 119777 (Sub-517), filed February 3, 1981. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85–East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities* (except classes A and B explosives), between points in St. Louis County, MO, on the one hand, and, on the other, points in the U.S.

Note.—Applicant states it intends to tack the requested authority with its regular route authority in MC 119777 Sub 168.

MC 119777 (Sub-518), filed February 3, 1981. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85-East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities* (except classes A and B explosives), (1) between points in Weber and Salt Lake Counties, UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, NV, NM, TX, and WY, (2) between points in Davidson County, TN, on the one hand, and, on the other, points in AL, AR, CA, FL, GA, IL, IA, KY, MA, MI, MO, NY, NC, OH, OK, PA, TX and WI, and (3) between points in Kosciusko County, IN, on the one hand, and, on the other, points in AL, DE, GA, IL, IA, MI, MN, MS, NC, OH, PA, SC, TX, and VA.

MC 125687 (Sub-23), filed January 28, 1981. Applicant: EASTERN STATES TRANSPORTATION PA., INC., 1060 Lafayette St., P.O. Box 1761, York, PA 17405. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., N.W., Washington, DC 20005. Transporting (1) *pulp, paper and related products*, (2) *rubber and plastic products*, and (3) *containers and container closures*, between points in CT, DE, MD, MA, NJ, NY, PA, RI, and DC.

MC 128837 (Sub-28), filed January 26, 1981. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Micheal W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *metal products*, between points in Cook and Peoria Counties, IL and Montgomery County, IN, on the one hand, and on the other, points in the U.S.

MC 128677 (Sub-5), filed January 29, 1981. Applicant: PORTLAND EXPRESS, INC., Russell St., P.O. Box 179, Portland, TN 37148. Representative: J. R. St. John, Jr., 1220 Faydur Court, Nashville, TN 37210. Transporting *metal products*, between points in Sumner County, TN, on the one hand, and, on the other, those points in the U.S., in and east of MT, WY, CO, and NM.

MC 134467 (Sub-75), filed January 30, 1981. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Transporting (1) *food and related products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above, between points in Washington County, MS, Sussex County, DE, and Saginaw, Lapeer, Macomb, and St. Clair Counties, MI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 138627 (Sub-09), filed January 23, 1981. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114. Transporting (1) *lumber and wood products*, and (2) *building materials*, between points in WA, ID, and OR, on the one hand, and, on the other, points in NE, IA, NM, and IL.

MC 138627 (Sub–109), filed February 2, 1981. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114. Transporting (1) *metal products*, (2) *machinery*, and (3) building materials, between points in Oklahoma County, OK, on the one hand, and on the other, points in the U.S.

MC 141167 (Sub-9), filed January 23, 1981. Applicant: LANGDON TRANSPORTATION, INC., 5202 Industry Ave., Pico Rivera, CA 90660. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills CA 90211. Transporting *such commodities* as are dealt in by drug, discount and department stores, between points in the U.S.

MC 144407 (Sub-28), filed January 29, 1981. Applicant: DECKER TRANSPORT COMPANY, INC., 96 Route 23, Riverdale, NJ 07457. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 144757 (Sub-4), filed February 2, 1981. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 308 W. Blvd., Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Trimac Panel Products, Inc., and International Development Group, both of Portland, OR, and Lumbermens Service, Inc., of Madison, WI.

MC 147167 (Sub-1), filed February 3, 1981. Applicant: T. C. SPIRES, INC., 1500 E. Chestnut St., Lancaster, OH 43130. Representative: Lewis S. Witherspoon, 88 E. Broad St., Columbus, OH 43215. Transporting *general commodities* (except classes A and B explosives), between points on Boone, Boyd, Bracken, Campbell, Greenup, Kenton, Lewis, Mason, and Pendleton Counties, KY, Brooke, Cabell, Hancock, Jackson, Marshall, Mason, Ohio, Pleasants, Tylor, Wayne, Wetzel, and Wood Counties, WV, and OH, on the one hand, and, on the other, points in the U.S.

MC 147517 (Sub-6), filed January 30, 1981. Applicant: TEXAS HIGHWAY TRANSPORT, 2311 Butler, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting *general commodities* (except classes A and B explosives), between points in TX, on the one hand, and, on the other, points in NM, IA, MO, WI, IL, MI, IN, KY, OH, VA, WV, PA, MD, DE, NJ, NY, CT, RI, MA, VT, NH, ME, TX, and DC.

MC 147807 (Sub-11F), filed December 5, 1980. Applicant: TERESI TRUCKING, INC., P.O. Box 819, 900½ Victor Rd., Lodi, CA 95240. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. Transporting *general commodities* (except classes A and B explosives), between points in AR, CA, ID, NV, NM, OR, UT, and WA.

MC 148647 (Sub-14), filed January 29, 1981. Applicant: HI-CUBE CONTRACT CARRIER CORP., 5501 West 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 No. LaSalle St., Chicago, IL 60601. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Ralston Purina Company, of St. Louis, MO.

MC 148647 (Sub-16), filed January 30, 1981. Applicant: HI-CUBE CONTRACT CARRIER CORP., 5501 West 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Renold, Inc., of West Pittston, PA.

MC 148647 (Sub-17), filed February 3, 1981. Applicant: HI-CUBE CONTRACT CARRIER CORP., 5501 West 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 No. LaSalle St., Chicago, IL 60601. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Lever Brothers Company, of New York, NY.

MC 149237 (Sub-3), filed February 2, 1981. Applicant: WATSON TRUCKING CO., a Corporation, 8412 Lou Court, Louisville, KY 40216. Representative: William P. Whitney, Jr., Suite 708 McClure Bldg., Frankfort, KY 40601. Transporting *such commodities* as are dealt in or used by drug, department or grocery stores, between points in Jefferson County, KY, on the one hand, and, on the other, points in GA.

MC 149497 (Sub-5), filed January 23, 1981. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Elaine M. Conway, 10 S. LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Schuld Mfg. Co., Inc., of Mosinee, WI.

MC 150417 (Sub-1), filed February 2, 1981. Applicant: BERGHORST POULTRY, INC., 2986 Dormax, Grandville, MI 49508. Representative: George A. Pendleton, P.O. Box 51, 5116 Brookgate, N.W., Comstock Park, MI 49004. Transporting *food and related products*, between points in Kent, Ottawa, Ionia, Muskegon, and Barry Counties, MI, on the one hand, and, on the other, points in the Lower Peninsula of MI.

MC 151637 (Sub-2), filed January 21, 1981. Applicant: LARRY BREEDEN TRUCKING, INC., 1301 Fayetteville Rd., Van Buren, AR 72956. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in Crawford County, AR, on the one hand, and, on the other, points in the U.S.

MC 152457 (Sub-1), filed January 28, 1981. Applicant: OLIN WILLINGHAM, d.b.a. WILLINGHAM'S GARAGE, 2122 Wilson Rd., Newberry, SC 29108. Representative: Frank A. Graham, Jr., P.O. Box 11864, Columbia, SC 29211. Transporting *transportation equipment*, (1) between points in GA, NC, and SC, and (2) between points in (1) above, on

the one hand, and, on the other, points in the U.S.

MC 153777, filed January 21, 1981. Applicant: GREAT ESCAPE TOURS, INC., 411 W. Bay Shore St., Marinette, WI 54143. Representative: Stanley C. Olsen, Jr., Suite 307, 5200 Willson Rd., Minneapolis, MN 55424. As a broker in arranging for the transportation of *passengers and their baggage*, beginning and ending at points in Marinette County, WI and Menominee County, MI, and extending to points in the U.S.

MC 153887, filed January 26, 1981. Applicant: L & A FORWARDING, INC., 18 Hackensack Ave., Kearny, NJ 07032. Representative: Larry Cohen (same address as applicant). Transporting *general commodities* (except Classes A and B explosives), between points in the U.S., under continuing contract(s) with Totowa Shippers Association of Totowa, NJ.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6220 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

[Vol. OP1-039]

Motor Carriers; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. §§ 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. §§ 11344 and 11349*, 363 ICC 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisons of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. §§ 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human envorinment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: February 12, 1981.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

Agatha L. Mergenovich,

Secretary.

MC-F-14505F, filed November 17, 1980. LEASEWAY TRANSPORTATION CORP. (Leaseway) (3700 Park East Drive, Cleveland, OH 44122).—CONTINUANCE IN CONTROL—BETTER HOME DELIVERIES, INC., (Better) (3700 Park East Drive, Cleveland, OH 44122). Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Leaseway, a non-carrier, seeks authority to continue in control of Better upon the institution by Better of operations, in interstate or foreign commerce, as a contract carrier. Leaseway, sole stockholder of Better, seeks authority to acquire control of said rights and property through the transaction. Leaseway is a publicly held corporation, that controls Anchor Motor Freight, Inc. (MC-808), Gypsum Haulage, Inc. (MC-112113), Signal Delivery Service, Inc. (MC-108393), Sugar Transport, Inc. (MC-115924), Dedicated Freight Systems, Inc. (MC-139583), Custom Deliveries, Inc. (MC-142963), LDF, Inc. (MC-147101), Stam-Win, Inc. (MC-147294, MC-150185), Pep Lines Trucking Co. (MC-120184), Mitchell Transport, Inc. (MC-124212, 152085), General Trucking Service, Inc. (MC-143308), Max Binswanger Trucking (MC-116314), and Refiners Transport & Terminal Corporation (MC-50069). Max Binswanger Trucking controls Balser Truck Co. (MC-96630), and Bulk Freightways (MC-125417). Refiners Transport & Terminal Corporation controls A. R. Gundry (MC-25562).

Condition: Leaseway, a non carrier, shall be considered a carrier within the meaning of 49 U.S.C. 11348 and is subjected to the requirements of 49 U.S.C. 11302 for those issuances of securities and assumptions of obligations which may relate to or affect the activities of its carrier subsidiaries. Regarding the reporting requirements of 49 U.S.C. 11145, Leaseway need only file such special reports as the Commission may from time to time require. Leaseway is not made subject to the accounting requirements of 49 U.S.C. 11142. (Hearing site: Washington, D.C.)

Note.—Better has filed as a directly related application its initial contract carrier application, docketed MC-150511F, published in this same **Federal Register** issue.

MC-F-14535F, filed December 30, 1980. C W TRANSPORT, INC. (C W) (610 High Street, Wisconsin Rapids, WI 54494)—CONTINUANCE IN CONTROL—FLEXIBLE TRANSPORT, INC. (Flexible) (P.O. Box 200, Wisconsin Rapids, WI 54494). Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. CW seeks authority to continue in control of Flexible upon the institution by Flexible of operations, in interstate or foreign commerce, as a motor contract carrier. Gerber Products Company, a publicly held non-carrier, is the sole stockholder of CW, and seeks authority to acquire control of said rights and property through the transaction. CW is a motor common

carrier pursuant to certificates issued in MC–111594 and subs thereunder.

Condition: Gerber Products Company, a non-carrier company, shall be considered a carrier within the meaning of 49 U.S.C. 11348 and is subjected to the requirements of 49 U.S.C. 11302 for those issuances of securities and assumptions of obligations which may relate to or affect the activities of its carrier subsidiaries. Regarding the reporting requirements of 49 U.S.C. 11145, Gerber Products Company need only file such special reports as the Commission may from time to time require. Gerber Products Company is not made subject to the accounting requirements of 49 U.S.C. 11142. (Hearing site: Chicago, IL.)

Note.—Flexible has filed as a directly related application its initial contract carrier application, docket NO. MC–153891F, which is published in this same **Federal Register** issue.

MC–F–14551, filed January 13, 1981. INDIANHEAD TRUCK LINE, INC. (Indianhead) (1947 West County Road C, St. Paul, MN 55113)—CONTINUANCE IN CONTROL—ITO LTD. (ITO) (121 West Doty St., Madison, WI 53703). Representative: W. A. Myllenbeck, 1947 West County Road C, St. Paul, MN 55113. Indianhead seeks to continue in control ITO upon the institution by ITO of operations, in interstate or foreign commerce, as a motor contract carrier. Lester Wilsey, Jr., the major stockholder of Indianhead, seeks authority to acquire control of said rights through the transaction. Indianhead is a motor common carrier pursuant to a certificate issued in No. MC–108449 and subs thereunder. (Hearing site: St. Paul, MN.)

Note.—ITO has filed as a directly related application its initial contract carrier application, docketed No. MC–153601, which is published in this same **Federal Register** issue.

[FR Doc. 81-6215 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

Decision Notice; Motor Carriers

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find that each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC–FC–78935. By decision of January 22, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to Milco Trucking, Inc. of Chanute, KS of certificate No. MC–138553 (Sub-No. 13) issued 10/7/75 to M&N Grain Company of Nevada, MO authorizing the transportation of pipeline skids, between points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Wisconsin and Wyoming. Applicant's representative is: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. TA application was filed. Transferee holds no authority.

MC–FC–78937. By decision of January 21, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to Byron D. Richards and Jeffrey C. Richards, a partnership, doing business as Richards Transportation Company of permit No. MC–129477 (Sub-No. 2) issued August 10, 1972 to Richards Transportation Co., Inc., authorizing the transportation of (1) *asphalt* and *asphalt compositions, industrial fuel oils,* and *road oils,* between the facilities utilized by Richards Oil Company at Savage, Pine Bend, St. Paul Park, and Wrenshall, MN, and Superior, WI, on the one hand, and, on the other, points in North Dakota, South Dakota, Iowa, Wisconsin, Illinois, and Minnesota, and (2) *chemicals* used in processing and blending asphalt and oils, from points in Illinois (except East St. Louis) to Savage, MN, subject to the following conditions: limited to a transportation service to be performed under a continuing contract, or contracts, with Richards Oil Company of Savage, MN. Applicant's representative is: James B. Hovland, Suite M–20, 400 Marquette Avenue, Minneapolis, MN 55401.

MC–FC–78938. By decision of January 22, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to Allison-Hilliard Van & Storage, Inc., of North Little Rock, AR of Certificate No. MC–126246 Sub-No. 6 issued 6/18/76 to American Transfer and Storage Company, of Dallas, TX, authorizing the transportation of household goods, between points in Arkansas, Baxter, Cleburne, Conway, Faulkner, Fulton, Garland, Grant, Hot Springs, Independence, Izard, Jefferson, Lonoke, Marion, Perry, Prairie, Pulaski, Saline, Searcy, Sharp, Stone, Van Buren and White Counties, AR. Applicant's representative is: James M. Duckett, 411 Pyramid Life Bldg., Little Rock, AR 72201. TA appln. have been filed.

MC–FC–78942. By decision of January 23, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 5 approved the transfer to JMT, Inc. d/b/a John Murray Coach Co., of Pittston, PA, of Certificate No. MC–145355F issued July 28, 1980 to John Murray's Motor Tours, Inc., of Pittston, PA authorizing transportation as a *common carrier,* by motor vehicles, in interstate or foreign commerce, over irregular routes, transporting *passengers* and their *baggage* in the same vehicle with passengers, in charter operations, in non-scheduled door-to-door service, limited to the transportation of not more than nine passengers in one vehicle, not including the driver, from points in Luzerne, Lackawanna, and Monroe Counties, PA, to points in Connecticut, Maryland, New Jersey, New York, and the District of Columbia, and return.

MC–78943. By decision of January 22, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to Mid-Atlantic Freight Carriers, Inc., of Certificate No. MC–134875 issued May 12, 1971, No. MC–134875 (Sub-No.

2) issued March 14, 1974, No. MC–134875 (Sub-No. 4) issued February 25, 1975, and No. MC–134875 (Sub-No. 9), issued June 19, 1979, and Permit No. MC–143761 (Sub-No. 2) issued May 15, 1979, to John W. Smoot, authorizing the transportation of *textiles, yarn, and clothing*, and *materials, supplies, and machinery*, used in the manufacture of textile, yarn, and clothing, except commodities in bulk, between Edinburg, VA, on the one hand, and, on the other, Abilene, TX, *textiles* and *textile products*, from Edinburg, Winchester and Woodstock, VA, Belmont, Albermarle, High Point, and Valdese, NC, and Spartanburg, SC, to Edinburg, Winchester and Woodstock, VA, with no transportation for compensation on return except as otherwise authorized. *Basic liquid fertilizer solution* and *basic feed liquid solution* in tank vehicles, from the facilities of Valley Fertilizer and Chemical, Co., Inc., at or near Mt. Jackson, VA, to points in Maryland, West Virginia, Pennsylvania, New Jersey, Delaware, North Carolina, South Carolina, Connecticut, Rhode Island, Vermont, New York, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. *Granular fertilizer*, in bags and in bulk, from the facilities of Valley Fertilizer and Chemical Co., Inc., at or near Mt. Jackson, VA, to points in Maryland, Pennsylvania, New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties, NJ), Delaware, South Carolina, Connecticut, Rhode Island, Vermont, and New York, with no transportation for compensation on return except as otherwise authorized. *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those of unusual value, and those requiring special equipment), restricted to the transportation of traffic having a prior or subsequent movement by air, water, or rail. Between the facilities of Aileen, Inc., at Woodstock and Edinburg, VA, on the one hand, and, on the other, Baltimore, MD, and the District of Columbia, and to operate as a *contract carrier*, transporting, *plastic articles and materials and supplies* (except commodities in bulk) *used in the manufacture and distribution of plastic articles*, between Winchester, VA, on the one hand, and, on the other, points in Louisiana and Texas under a continuing contract or contracts with Rubbermaid Commercial Products, Inc., of Winchester, VA. Applicant's representative is: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740.

MC–FC–78945. By decision of January 22, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to BUEL, INC. of Certificate No. MC–120427 (Sub-Nos. 14 and 31) issued March 1, 1979 to WILLIAMS TRANSFER, INC. and September 4, 1980, respectively authorizing the transportation of Sub-No. 14: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 from the facilities of Gibbon Packing, Inc., at Gibbon, NE, to Los Angeles, CA, Louisville, KY, Miami, FL, Gulfport, MS, Houston, TX, and Philadelphia, PA, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. Sub-No. 31F: *frozen boxed horse meat, and frozen prepared zoo diets*, from North Platte, NE to points in the United States (except Alaska and Hawaii), restricted to traffic originating at the facilities of Central Nebraska Packing Company at North Platte, NE. Applicant's representative is: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106.

MC–FC–78948. By decision of January 23, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the release, for a one year, to G–M Transports, Inc. of Dallas, Texas of Certificate No. MC–118180 (Sub-No. 1) issued October 25, 1979 to Arctic Express, Inc. of Dallas, Texas authorizing the common carrier transportation to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, *meats, meat products*, and *meat by-products, dairy products*, and *articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between Oklahoma City, OK, on the one hand, and, on the other, points in that part of Texas east and south of a line beginning at the United States-Mexico Boundary line and extending along the Texas-New Mexico State line to junction U.S. Highway 285, thence along U.S. Highway 285 to Pecos, TX, thence along U.S. Highway 80 to Sweetwater, TX, thence in a northeasterly direction through Stamford, TX, to Seymour, TX, thence along U.S. Highway 283 to Vernon, TX, thence due north from Vernon to the Texas-Oklahoma State line, including Sweetwater and points on that portion of the designated line between Sweetwater and the Texas-Oklahoma State line restriction: no service is authorized to or from Houston and Beaumont, TX, and points on U.S. Highway 90 between Houston and Beaumont, or to points on U.S. Highway 75 between Houston and Huntsville, TX, between Oklahoma City, OK, on the one hand, and, on the other, Beaumont, TX, and points on U.S. Highway 90 between Houston and Beaumont, TX (but not including Houston), and all points on U.S. Highway 75 between Houston and Huntsville, TX (but not including Houston), between Oklahoma City, OK, on the one hand, and, on the other, points in the Panhandle territory of Texas, between Forth Worth, TX, on the one hand, and, on the other, points in that part of Oklahoma south of a line beginning at the Texas-Oklahoma State line on U.S. Highway 60 and extending along U.S. Highway 60 to Enid, OK, thence along U.S. Highway 64 to the Oklahoma-Arkansas State line, including points on the indicated portions of the highways specified and the points named, from Dallas and Fort Worth, TX, to Corsicana, Waxahachie, Mount Vernon, Longview, Tyler, Kilgore, Gladewater, Henderson, Marshall, Wichita Falls, Arlington, Grand Prairie, Euless, and Hurst, TX, *meats, meat products*, and *meat by-products, dairy products*, and *articles distributed by meat packinghouses*, as described in Sections, A, B, and C, of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in vehicles equipped with mechanical refrigeration, restricted to the distribution of pool car and pool truck shipments, from Dallas and Fort Worth, TX, to points in Texas (except Corsicana, Waxahachie, Mount Vernon, Longview, Tyler, Kilgore, Gladewater, Henderson, Marshall, Wichita Falls, Arlington, Grand Prairie, Euless, and Hurst, TX), restriction: no single portion of the authority contained herein above shall be tacked, directly or indirectly, with any other portion contained herein above for the purpose of performing any through service, *meats, meat products*, and *meat byproducts*, and *articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 204 and 766 (except commodities in bulk), from the plant site of National Beef Packing Company, located near Liberal, KS, to points in Louisiana, Arkansas, Mississippi, and Alabama, restriction: the operations authorized in the route description next-above is restricted to the transportation of shipments originating at the above-

named plant site and destined to points in the above-named States, *meats, meat products,* and *meat byproducts,* and *articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 from the plant site and storage facilities of National Beef Packing Company near Liberal, KS, to points in Oklahoma and Texas, restriction: the operations authorized in the route description next-above is restricted to the transportation of traffic originating at the above-named plant site and storage facilities, *meats,* from the plant site and storage facilities of Wilson and Co., near Hereford, TX, to points in Oklahoma and Texas, restriction: the authority granted in the route description next-above is restricted to the transportation of traffic originating at the named plant site and storage facilities of Wilson and Co., near Herefore, TX, to points in Oklahoma and Texas, *meats,* with or without other ingredients, in hermetically sealed containers, from the plant site of Armour-Dial, Inc., at Fort Madison, IA, to points in Texas, restriction: the authority granted in the route description next-above is restricted to traffic originating at the named plant site and destined to Texas, *packinghouses, products,* between Shreveport, LA, and Marshall, TX, on the one hand, and, on the other, Longview, Kilgore, Gladewater, Henderson, Tyler, Jacksonville, Palestine, Overton, Arp, Ironton, Carlisle, and Athens, TX, *meats, meat products,* and *meat by-products, dairy products,* and *articles distributed by meat packinghouses,* as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plant site and storage facilities of Wilson Certified Foods, Inc., at Oklahoma City, OK, to points in Colorado, foodstuffs, and laundry products when moving in mixed shipments with foodstuffs, from Dallas and Fort Worth, TX, to points in Texas, Oklahoma, and that part of Louisiana west of the Mississippi River, the authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. Applicant's representative is: James W. Hightower, Hightower, Alexander and Cook, P.C., 5801 Marvin D. Love Freeway, Suite 301, Dallas, Texas 75237 (9214) 339–4108.

Note.—Certificate MC–118180 (Sub-No. 1) issued February 17, 1977 is canceled as modified by letter dated February 1, 1979 changing carrier's name from Milko-American Farms, Inc., to Arctic Express, Inc.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–6079 Filed 2–23–81; 8:45 am]

BILLING CODE 7035–01–M

Decision Notice; Motor Carriers

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC–FC–78505. By supplemented decision of January 21, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to Robert L. Olson d/b/a Olson Trucking of Certificate of Registration No. MC–138016 (Sub-No. 30) issued September 5, 1978 to Refrigerated Foods, Inc. authorizing the transportation over irregular routes of *meat, meat products, meat by-products,* and *articles distributed by meat packinghouses,* as described in Section A and C of Appendix I to the report in *Description in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Flavorland Industries, Inc. located at or near Fargo and West Fargo, Ind., to points in Arizona, California, Montana, Nevada, Oregon, Utah, and Washington. Restriction: The operations authorized herein are restricted to the transportation of shipments originating at the above described facilities and origin and destined to points in the above-described destination States. Review Board Number 5, also approved the transfer to Robert L. Olson d/b/a/ Olsen Trucking of Certificate No. MC–134068 issued April 24, 1970 to Refrigerated Foods, Inc. but not yet re-issued in Refrigerated's name, authorizing the transportation over irregular routes, *Dry buttermilk,* From points in Minnesota and Wisconsin within 100 miles of Bongards, MN, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, with no transportation for compensation on return except as otherwise authorized. *Cheese, condensed whey, and dried whey,* From Watkins, MN, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, with no transportation for compensation on return except as otherwise authorized. *Butter,* From Watkins, MN, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, with no transportation for compensation on return except as otherwise authorized. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–6080 Filed 2–23–81; 8:45 am]

BILLING CODE 7035–01–M

Decision Notice; Motor Carriers

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notice within 30 days after publication, or within any approved extension period. Otherwise, the decision-notices shall have no further effect.

By the Commission, Review Board Number 5, The Motor Carrier Board, Members Krock, Williams, and Taylor.

MC–FC–35482. By decision of January 21, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the lease for one year to S.W. Furniture Carrier, Inc. of Certificate No. MC–40898 and all sub numbers proceedings issued to S & W Motor Lines, Inc. authorizing the transportation of various specialized commodities handled goods from to points located in various states including Pennsylvania, New Jersey, New York and Maryland. There is also some traffic to and from such states as Indiana, Ohio and West Virginia. Subject to the following conditions: if any. Lease shall be for 1 year only pursuant to 49 CFR 1132.5(b). The Commission did not look with favor in extensions of such leases. Applicants' representative: A.W. Flynn Jr., P.O. Box 180, Greensboro, N.C. 27402.

MC–FC–78697. By decision of January 29, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132. Review Board Number 5 approved the transfer to Delmont E. Hart, Inc. of Permit No. MC–12909 and MC–129019 (Sub-No. 1) issued December 26, 1967 and November 28, 1922 to Street and Nadeau, Inc. authorizing the transportation of (1) Finished Lumber from Lincoln, ME to points in Massachusetts, and (2) Lumber from Lincoln, ME to points in Rhode Island and Connecticut, subject to the following conditions: under common carrier or contracts with Haskell Lumber Co. or Haskell Lumber, Inc. of Lincoln Center, ME. Applicants's representative is: Delmont E. Hart, President, Delmont E. Hart, Inc., P.O. Box 26, Etna, ME.

MC 78890. By decision of January 19, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to L.C.W. Transportation Service, Inc., of Edinburg, TX. of the authority set forth below issued January 19, 1981 to L.C.W. Trucking, Inc., of Crowley, TX, and authorizing the irregular-route operations described as follows: (1) Certificate No. MC 138 (Sub-No. 8) issued September 2, 1980: *doors, door frames, and mouldings,* from ports of entry on the internatiional boundary line between the United States and Mexico at or near El Paso, TX, to San Antonio and Houston, TX. (2) Certificate No. MC 138686 (Sub-No. 10) issued December 3, 1980: *doors, door frames, and mouldings,* from ports of entry on the international boundary line between the United States and Mexico, at or near El Paso, TX to Diboll and Harlingen, TX, restricted to traffic moving in foreign commerce. Permit No. MC 138578 issued April 11, 1974: (1) *Paper* and *paper products,* and (2) *equipment, materials, and supplies* (except commodities in bulk) used in the manufacture of paper and paper products, Between the plant and warehouse sites of International Paper Company located in Edinburg, TX., on the one hand, and, on the other, points in Arkansas, Colorado, Louisiana, Mississippi, Missouri, New Mexico, and Oklahoma. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with International Paper Company, of New York, N.Y. (3) Permit No. MC 138578 (Sub-No. 3) issued August 12, 1977: *Paper* and *paper products,* From McAllen, TX., to points in Arkansas, Colorado, Louisiana, Missouri, New Mexico, Oklahoma, and Mississippi. Restriction: The authority granted herein is limited to a transportation service to be performed under a continuing contract, or contracts, with Weyerhaeuser Company, McAllen, TX. (4) Permit No. MC 138578 (Sub-No. 4) issued August 12, 1977: *Materials and supplies,* (except commodities in bulk) used in the manufacture of paper products, From points in Arkansas, Colorado, Louisiana, Missouri, New Mexico, Olkahoma, and Mississippi, to McAllen, TX. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Weyerhaeuser Company, of McAllen, TX. (5) Permit No. MC 138578 (Sub-No. 8) issued January 6, 1978: *Corrugated paper sheets,* From the facilities of Crown Zellerbach, Gaylord Container Division, at Bogalusa, LA. to the facilities of Crown Zellerbach, Gaylord Container Division, at Weslaco, TX. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Crown Zellerbach, Gaylord Container Division, of Weslaco, TX.

Applicants' representative is: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102. Transferee presently holds no authority from the Commission.

MC 78889. By decision of January 21, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to William G. Cummings, Inc., of Orofino, ID, of Certificate No. MC 125907, issued January 27, 1971 to Douglas N. Miller, an individual, d/b/a Western Transport, of Missoula, MT, authorizing the transportation, over irregular routes, of *Road building and logging equipment, machinery and supplies,* between points in Deer Lodge, Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, MI, and points in Idaho. Applicants' representative is: Henry C. Winters, 525 Evergreen Building, Renton WA, 98055. Transferee presently holds authority to perform common carrier operations under Certificate No. MC 111751.

Note.—Transferee may not tack the authority acquired in this proceeding with its presently held irregular-route authority for the purpose of providing a through service.

MC–FC–78919. By decision of January 22, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to Incorporated Carriers, Inc., Nevada, Missouri of Certificate No. MC–

138553, and in MC–138553 (Sub-Nos. 3 and 4) issued July 18, 1973, April 30, 1980, and April 30, 1980, respectively, to M & N Grain Company, Nevada, Missouri authorizing the common carrier transportation of *hides and pelts*, from Butler, MO to Los Angeles and San Francisco, CA, Chicago, IL, Cedar Rapids, IA, Middlesboro, KY, New Orleans, LA, South Paris, ME, Daversport and Peabody, MA, Detroit, MI, Omaha, NE, Newark, NJ, Brooklyn & New York, New York, Brownsville, Houston and Laredo, TX, Norfolk, VA, Fond du Lac, Hartford, Green Bay, Kenosha, Milwaukee and Weyauwega, WI with no transportation for compensation on return except as otherwise authorized. From Fort Smith, AR, Denver, Greeley, Lamar, Monte Vista, Rocky Ford and Stratton, CO, Chicago, Joliet and Milan, IL, Cedar Rapids, Centerville, Des Moines and Marshalltown, IA, Andale, Dodge City, Ellis, Garden City, Pratt, Seneca, Solomon and Wichita, KS, Darr, Gibbon, Omaha and Scottsbluff, NE, Albuquerque, NM, Bismarck, Dickinson, Fargo, Nettinger, Jamestown, Minot and Williston, ND, Enid and Oklahoma City, OK, Mitchell, Rapid City, Sioux Falls and Yankton, SD, Amarillo, Fort Smith, Hamilton, McKinney, Palestine, Paris, San Angelo and San Antonio, TX, Green Bay and Weyauwega, WI and Casper and Worland, WY to Butler, MO with no transportation for compensation on return except as otherwise authorized. Sub 3: *Hides* from Chicago, Hampshire, Mason City and Rockford, IL, Evansville, Fort Wayne and Indianapolis, IN, Cedar Rapids, Denison, Spencer and Tama, IA, Solomon and Wichita, KS, Louisville, KY, Detroit, MI, Minneapolis and St. Cloud, MN, Meridian and Tupelo, MS, Joplin, Kansas City, Rock Port and Springfield, MO, Chadron, NE, Dakota City, Gibbon, McCook and Omaha, NE, Cincinnati, Cleveland, Columbus and Toledo, OH, Rapid City, SD, Memphis, TN and Chippewa Falls, Green Bay, and Milwaukee, WI to Laredo, TX. Sub 4: *Hides* (1) from Los Angeles, CA, Macon, GA, Hampshire, IL, Springfield, MO, Newark, NJ, Philadelphia, PA, Bellingham and Seattle, WA, and Milwaukee and Muskego, WI to Laredo, TX, (2) from Springfield, MO, North Platte and Omaha, NE, Lubbock, TX and Muskego, WI to Los Angeles, CA and (3) from North Platte, NE to Oakland and San Francisco, CA.

MC–FC–78925. By decision of January 23, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to Marion Transport, Inc. of Certificate No. MC–109658 Marion, Kentucky issued November 13, 1980 to Peoples Bank of Marion, Marion, Kentucky authorizing the transportation of irregular routes: *Fluorspar and lead and zinc concentrates*, in bulk between points in Livingston and Crittenden Counties, Ky, restricted to the transportation of shipments having an immediately subsequent movement by rail or water. *Calcium fluoride (fluorspar), zinc, and lead*, in bulk, in dump trucks, between points in Livingston and Crittenden Counties, Ky., on the one hand, and, on the other, points in Hardin County, Ill. *Mining and milling machinery, materials, supplies, and equipment*, from Marion, Ky., to the site of Hutson mine of the Eagle-Picher Company, near Salem, Ky., with no transportation for compensation on return except as otherwise authorized. *Fluorspar*, in bulk, from points in Hardin County, Ill., to Calvert City, Ky., with no transportation for compensation on return except as otherwise authorized. RESTRICTION: The authority granted herein is subject to the following conditions: Carrier shall conduct separately his common carrier operations and his other business activities. Carrier shall maintain separate accounts and records therefor. Applicant's representative: William L. Willis, Suite 708 McClure Bldg., Frankfort, Kentucky 40601.

MC–FC–78928. By decision of January 23, 1981 issued under the transfer rules at 49 C.F.R. Part 1133, Review Board Number 5 approved the transfer to Pro Travel Service, d/b/a Bob Mills Tours, of San Diego, CA, of License No. MC–130321 issued October 18, 1979, to Fred Bungle Tours, Inc., of San Diego, CA, authorizing the transportation of passengers and their baggage, in special and charter operations, beginning and ending at points in San Diego County, CA, and extending to points in the United States, including Alaska and Hawaii. Applicant is authorized to engage in the above-specified operations as a broker at San Diego, CA. Applicant's representative is: Carolyn S. Millisor, 3545 Midway Drive, San Diego, CA 92110, 714–224–3761, TA has not been filed. Transferee presently holds no authority from the Commission.

MC–FC–78932. By decision of January 23, 1981 issued under 49 U.S.C. 10928 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Iroquois Paving Corporation of Watseka, IL, of Certificate No. MC–127767 issued October 25, 1966, to Dominic E. Lynch, d.b.a. D. E. Lynch Construction Company, of Watseka, IL, authorizing the transportation of *crushed limestone, sand, and gravel*, from points in Newton County, Ind., to points in Kankakee, Iroquois, and Ford Counties, Ill., with no transportation for compensation on return except as otherwise authorized. Applicant's representative is: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703, 217–528–8476.

Note.—Application for TA has not been filed. Transferee presently holds no authority.

MC–FC–78934. By decision of January 21, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to Northwestern Travel Agency, Inc. of Sioux Falls, SD, of License No. MC–12875 issued July 15, 1979 to Northwestern National Bank of Sioux Falls d.b.a. Northwestern Travel Agency of Sioux Falls, SD, authorizing the transportation of passengers and their baggage, in round-trip tours, beginning and ending at points in South Dakota, and that part of Minnesota on and south of U.S. Hwy 14, and extending to points in the United States, including Alaska, excluding Hawaii. This license authorizes the described operations as a broker at Sioux Falls, SD. Restriction: The service authorized is subject to the right of the Commission to impose such terms and conditions, if any, as may be deemed necessary to insure that transportation which applicant arranges is limited to bona fide service as a broker of transportation by motor vehicle of passengers and their baggage in round-trip tours. Applicant's representative is: James W. Greene, President, Northwestern Travel Agency, Inc., 101 N. Phillips, Northwestern Bank Arenda, Sioux Falls, SD 57102, 605–339–7364.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6081 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 74 Under Service Order No. 1344]

Illinois Terminal Railroad Co., Rerouting Traffic

To: The Illinois Terminal Railroad Company. In the opinion of Joel E. Burns, Agent, the Illinois Terminal Railroad Company is unable to transport promptly all traffic offered for movement over its lines between Decatur and Champaign-Urbana, Illinois, because of heavy snow and ice.

It is ordered,

(a) *Rerouting traffic.* The Illinois Terminal Railroad Company, being unable to transport promptly all traffic offered for movement between Decatur

and Champaign-Urbana, Illinois, due to heavy snow and ice, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:00 a.m., February 13, 1981.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 27, 1981, unless otherwise modified, amended or vacated.

This order shall be served upon the Association of American Railroads, Car Service Division, as agenct of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 13, 1981.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 81-6062 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant 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.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant 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. 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 protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. 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".

Vol. No. 170

Decided: February 11, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. (Member Hill not participating.)

MC 153934, filed January 27, 1981. Applicant: AARID ENTERPRISE CORPORATION, 1340 Chesapeake Ave., Suite 100, Baltimore, MD 21226. Representative: Samuel L. Silverman, 1100 Tower Bldg., Baltimore Street and Guilford Ave., Baltimore, MD 21202. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 153865, filed January 21, 1981. Applicant: JOHN BRUMBACK TRUCKING, 2151 North Redwood Road, Salt Lake City, UT 84116. Representative: Robert Clifford (same address as applicant). Transporting, for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 153845, filed January 21, 1981. Applicant: MARKO ASSOCIATES, INC., 1205 River Ave., Lakewood, NJ 08701. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 73165 (Sub-542), filed January 23, 1981. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, 124 Commerce St., Kingsport, TN 37660. Transporting *general commodities*, between Foxburg and Parker, PA, on the one hand, and, on the other, points in the U.S. NOTE: The purpose of this application is to

substitute motor carrier for abandoned rail carrier service.

MC 73165 (Sub-543), filed January 23, 1981. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, 124 Commerce St., Kingsport, TN 37660. Transporting *general commodities*, between Herscher, IL, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

Vol. No. OP3–171

Decided: February 13, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

MC 140025 (Sub-5), filed January 27, 1981. Applicant: L & T, INC., 2650 West Beaver Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Vol. No. OP4–025

Decided, February 13, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

MC 153847, filed January 22, 1981. Applicant: DATA DISTRIBUTORS INC., 2011 S.E. 10th St., Portland, OR 97214. Representative: John Patrick McDonough (same address as applicant). 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.

MC 153327 (Sub-1), filed December 29, 1980. Applicant: AUBREY T. MILLICAN AND MAURICE TELFORD, d.b.a. BLUE STREAK EXPRESS, a partnership, 5320, S. Third St., Memphis, TN 38109. Representative: Aubrey T. Millican, 5310 Lexie, Memphis, TN 38109. 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.

MC 119777 (Sub-514), filed January 30, 1981. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85-East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities*, between Covington and Ewen, MI, Library and Library Junction, PA, and Browder, Penrod and Lewisburg, KY, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor service for abandoned rail service. To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6072 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant 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.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant 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. 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 protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. 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".

Volume No. 169

Decided: February 11, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. (Member Hill not participating.)

MC 1745 (Sub-11), filed January 23, 1981. Applicant: INTERSTATE VAN LINES, INC., 5801 Rolling Road, West Springfield, VA 22152. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300, Washington, DC 20006. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Interstate International, Inc., of West Springfield, VA.

MC 2304 (Sub-44), filed January 28, 1981. Applicant: THE KAPLAN TRUCKING COMPANY, a corporation, 6600 Bessemer Ave., Cleveland, OH 44127. Representative: James M. Burtch, 100 East Broad St., Columbus, OH 43215. Transporting *general commodities* (except classes A and B explosives), between the facilities of Ralston Purina Company, in the U.S., on the one hand, and, on the other, points in the U.S.

MC 2605 (Sub-18), filed January 23, 1981. Applicant: COMMERCIAL TRANSPORTATION, INC., 2300 E. Adams St., Philadelphia, PA 19124. Representative: Daniel O. Hands, Suite 200, 205 W. Toucy Ave., Park Ridge, IL 60068. Transporting *such commodities* as are dealt in or used by grocery stores (1) between points in Burlington and Mercer Counties, NJ, and Bucks, Montgomery and Philadelphia Counties, PA, on the one hand, and, on the other, points in DE, IA, IL, IN, MD, MI, MO, NJ, NY, OH and PA, and (2) between points in Greene County, MO, on the one hand, and, on the other, points in DE, IA, IL, IN, MD, MI, NJ, NY, OH and PA.

Note.—Applicant intends to tack this authority with its regular-route authority.

MC 8515 (Sub-43), filed January 21, 1981. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and Illinois 89, Spring Valley, IL 61362.

Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by tractors and tractor parts, between the facilities of Caterpillar Tractor Co., on the one hand, and, on the other, points in IL, IN, IA, OH, KY, MI, TN, and WI.

MC 13134 (Sub-100), filed January 22, 1981. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Ohio St., Route No. 93, North, Oak Hill, OH 45656. Representative: James M. Burtch, 100 East Broad St., Columbus, OH 43215. Transporting *refractory products*, between Chicago, IL, and points in Greenup County, KY, Hamilton, Sandusky, and Franklin Counties, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 16334 (Sub-11), filed January 19, 1981. Applicant: DEBRICK TRUCK LINE COMPANY, R.R. No. 2, Paola, KS 66071. Representative: D. L. Debrick (same address as applicant). Transporting *precast concrete manholes*, between the facilities of Hardwall Fabricators, Inc., at or near North Miami, OK, on the one hand, and, on the other, points in AR, IA, KS, OK, MO, NE, and TX.

MC 59444 (Sub-11), filed January 22, 1981. Applicant: WALLER TRUCK CO., INC., Highway 10 East, Box 5900, Richmond, MO 64085. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Transporting *rubber and plastic products*, between Phoenix, AZ, Stone Mountain, GA, Tinton Falls, NJ, City of Industry, CA, El Campo and San Antonio, TX, Des Plaines, IL, Milford, NH, Higginsville, MO, Monroeville and Mt. Sterling, OH, Alexandria, VA, Shreveport, LA, Benton, WA, and Tampa and Miami, FL, on the one hand, and, on the other, points in the U.S.

MC 59655 (Sub-41), filed January 22, 1981. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Rd., Suffern, NY 10901. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *beverages*, between the points in the U.S.

MC 62824 (Sub-6), filed January 28, 1981. Applicant: SPARTAN EXPRESS, INC., P.O. Box 1089, Greer, SC 29651. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13 St., NW., Washington, DC. 20004. Transporting *general commodities* (except classes A and B explosives), between points in AL, FL, GA, MS, NC, SC, TN, and VA.

MC 73165 (Sub-544), filed January 23, 1981. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, 124 Commerce St., Kingsport, TN 37660. Transporting (1) *clay, concrete, glass or stone products*, between points in Pulaski County, AR, Bibb County, GA, Latah County, ID, Grudy County, IL, Jackson County, MS, Middlesex County, NJ, Pueblo County, CO, Mayes County, OK, and points in AL, MO, OH, PA, and TX, on the one hand, and, on the other, points in the U.S., and (2) *metal products*, between points in Coshocton County, OH, on the one hand, and, on the other, points in the U.S.

MC 114284 (Sub-99), filed January 21, 1981. Applicant: FOX-SMYTHE TRANSPORTATION CO., a corporation, P.O. Box 82307, Oklahoma City, OK 73148. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601. Transporting *food and related products*, between points in Tulsa, Creek, Osage, Rogers, and Wagoner Counties, OK, on the one hand, and, on the other, points in AZ, AR, CA, CO, IL, IA, KS, MN, MO, NE, NM, SD, TX and WI.

MC 116915 (Sub-131F), filed December 24, 1980, previously noticed in the **Federal Register** on January 26, 1981. Applicant: ECK MILLER TRANSPORTATION CORP., Rt. No. 1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting (1) *rubber and rubber products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between ponts in St. Clair County, IL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM.

Note.—This republication corrects the territorial description of St. Clair County, IL, instead of St. Clair County, MO.

MC 119654 (Sub-95), filed January 22, 1981. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th St., P.O. Box 509, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. Transporting *electrical equipment and parts* for televisions, radios, stereos, tape recorders, computers, video recorders, cabinet speakers, stereo speakers, and security systems, between the facilities of Zenith Radio Corporation, on the one hand, and, on the other, points in IL, IN, KY, MI, MO, OH, PA, WI.

MC 121805 (Sub-13), filed January 19, 1981. Applicant: ARKANSAS EXPRESS, INC., 1200 Arkansas Ave., North Little Rock, AR 72114. Representative: James M. Duckett, 221 West Second, Suite 411, Little Rock, AR 72201. Over regular routes, transporting *general commodities* (except classes A and B explosives), (1) Between Little Rock, AR, and the AR-MO State line, over U.S. Hwy 67; (2) Between Memphis, TN, and Henderson, AR, from Memphis over Interstate Hwy 40 to junction U.S. Hwy 61, then over U.S. Hwy 61 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction U.S. Hwy 62, and then over U.S. Hwy 62 to Henderson, and return over the same route; (3) Between Jonesboro, AR, and the AR-MO State line, from Jonesboro over U.S. Hwy 49 to junction U.S. Hwy 62, and then over U.S. Hwy 62 to the AR-MO State line, and return over the same route; (4) Between Corning and Piggot, AR, over U.S. Hwy 62; (5) Between Walnut Ridge and Paragould, AR, over AR Hwy 25; (6) Between Jonesboro and Wynne, AR, over AR Hwy 1; (7) Between Jonesboro and Blytheville, AR, over AR Hwy 18; (8) Between Marked Tree and Osceola, AR, over AR Hwy 140; (9) Between Memphis, TN, and Blytheville, AR, from Memphis over Interstate Hwy 40 to junction U.S. Hwy 61, and then over U.S. Hwy 61 to Blytheville, and return over the same route; and (10) Between Pangburn and Searcy, AR, over AR Hwy 16, serving in connection with routes (1) through (10) above all intermediate points.

Note.—Applicant intends to tack this authority with its existing authority.

MC 124004 (Sub-65), filed January 19, 1981. Applicant: RICHARD DAHN, INC., 620 West Mountain Road, Sparta, NJ 07871. Representative: Richard Dahn (same address as applicant). Transporting *general commodities* (except classes A and B explosives) between the facilities of the International Paper Company, New York, NY, on the one hand, and, on the other, points in the U.S.

MC 124004 (Sub-66), filed January 29, 1981. Applicant: RICHARD DAHN, INC., 620 West Mountain Road, Sparta, NJ 07871. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *pulp, paper and related products, and rubber and plastic products*, between points in the U.S.

MC 125335 (Sub-109F), filed December 3, 1980, previously notice in the **Federal Register** on January 6, 1981. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *such commodities* as are dealt in or used by wholesale and retail grocery stores and food business houses, between points in Franklin, Cumberland, Dauphin, York, and Adams Counties, PA, on the one hand, and, on

the other, points in AL, AR, FL, GA, IL, IA, IN, KS, KY, LA, MI, MN, MS, MO, NE, NC, ND, OH, OK, SC, SD, TN, TX, and WI.

Note.—This republication corrects the territorial description of the State of KY instead of KM.

MC 135364 (Sub-47), filed January 23, 1981. Applicant: MORWALL TRUCKING, INC., R.D. No. 3, Box 76C, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Amana Refrigeration, Inc., of Amana, IA.

MC 136635 (Sub-50), filed January 21, 1981. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Road, South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *plastic articles*, between points in Union County, KY, on the one hand, and, on the other, points in the U.S.

Note.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. 11343–11344 or submit an affidavit to the Secretary's office indicating why such approval is unnecessary. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application for common control to Team 3, Room 2158.

MC 136635 (Sub-51), filed January 26, 1981. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Road, South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *iron and steel articles*, between Aliquippa, PA, Youngstown, OH, and Indianapolis, IN, on the one hand, and, on the other, points in CA, OR, WA, and AZ.

MC 139084 (Sub-13), filed January 26, 1981. Applicant: TOTRAN TRANSPORT LTD., Nisku Business Park, P.O. Box 4830, South Edmonton, Alberta T6E 4T5. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *lumber and wood products, metal products, machinery transportation equipment, Mercer commodities, clay, concrete, glass or stone products, fertilizer, and commodities which because of their size or weight require the use of special handling or equipmeht*, between points in the U.S., on the one hand, and, on the other, ports of entry on the International boundary line between the U.S. and Canada, in WA, ID, MT, ND, MN, MI, NY, and AK.

MC 139284 (Sub-8), filed January 22, 1981. Applicant: TRUCKER'S INC., P.O. Box 337, 4316 South Main St., Stafford, TX 77477. Representative: Damon R. Capps, Suite 1230, Capital National Bank Bldg., Houston, TX 77002. Transporting *sand, kiln dust, barite ore and gel*, between points in LA, TX, and OK.

MC 140555 (Sub-6), filed January 21, 1981. Applicant: J G EXEC, INC., 1125 S. Bradford St., Dover, DE 19901. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300, Washington, DC 20006. Transporting *passengers and their baggage*, limited to not more than 12 passengers (excluding the driver) in one vehicle at one time, in special operations, between points in Kent and Sussex Counties, DE, on the one hand, and, on the other, John F. Kennedy International Airport, and La Guardia Airport, at or near New York, NY, McGuire Air Force Base near Wrightstown, NJ, Dulles International Airport, in Loudoun County, VA, Baltimore, MD, Washington, DC, Philadelphia, PA, and Norfolk, VA.

MC 141684 (Sub-9), filed January 27, 1981. Applicant: COMMAND CARGO CORPORATION, 8700 Larkin Rd., Savage, MD 20863. Representative: Dean N. Wolfe, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *general commodities* (except classes A and B explosives), between points in NJ, on the one hand, and, on the other, points in PA, WV, VA, DE, MD, and DC.

MC 144115 (Sub-13), filed January 29, 1981. Applicant: DIVERSIFIED CARRIERS, INC., 903 6th St., NW., Rochester, MN 55901. Representative: Charles E. Dye, P.O. Box 971, West Bend, WI 53095. Transporting *food and related products*, between the facilities of Fearn International, Inc., in the U.S., on the one hand, and, on the other, points in the U.S.

MC 144715 (Sub-15), filed January 22, 1981. Applicant: ANDERSON & WEBB TRUCKING CO., INC., P.O. Box 1523, 542 West Independence Blvd., Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. Transporting *machinery*, between Baltimore, MD, and points in Blair and Cambria Counties, PA, Patrick County, VA, and Surry, Moore, and Hoke Counties, NC, on the one hand, and, on the other, points in the U.S.

MC 145384 (Sub-53), filed January 23, 1981. Applicant: ROSE-WAY, INC., 1914 East Euclid Ave., Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *lumber and wood products*, between points in the U.S., under continuing contract(s) with Midwest Lumber Associates, of Sun Prairie, WI; and (2) *metal products*, between points in the U.S., under continuing contract(s) with Metal Exchange Corporation, of St. Louis, MO.

MC 146145 (Sub-4), filed January 23, 1981. Applicant: TOWER TRANSPORT, INC., 528 South Cumberland Ave., Park Ridge, IL 60068. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. Transporting *containers and closures*, between points in IL, IN, and WI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 146585 (Sub-3), filed January 22, 1981. Applicant: DOUBLE DD TRUCK LINE, INC., P.O. Box 230, Canby, OR 97013. Representative: Jerry R. Woods, Suite 1600, One Main Pl., 101 SW Main St., Portland, OR 97204. Transporting (1) *irrigation systems*, and (2) *machinery*, between points in Multnomah and Washington Counties, OR, on the one hand, and, on the other, points in the U.S.

MC 147475 (Sub-4), filed January 23, 1981. Applicant: WHITE TOP TRANSPORT, INC., P.O. Box 675, McMinnville, OR 97128. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *building materials* and *lumber*, between points in OR, WA, CA, and ID.

MC 148284 (Sub-1), filed January 23, 1981. Applicant: DON YOUNGBLOOD TRUCKING, INC., P.O. Box 309, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting *food and related products*, between points in the U.S., on the one hand, and, on the other, points in AR.

MC 152434 (Sub-1), filed January 22, 1981. Applicant: HOOD RAILWAY SERVICES, INC., P.O. Box 7481, Tyler, TX 75711. Representative: William Sheridan, 10235 Metker, P.O. Drawer 5049. Transporting *general commodities* (except classes A and B explosives), between Dallas and Smith Counties, TX, on the one hand, and, on the other, points in Angelina, Anderson, Camp, Cherokee, Gregg, Harrison, Houston, Henderson, Morris, Nacogdoches, Rusk, Smith, Titus, Upshur, Vanzandt, and Wood Counties, TX.

MC 153024 (Sub-1), filed January 29, 1981. Applicant: CAZADOR TRANSPORTATION SERVICES, INC., P.O. Box 10693, El Paso, TX 79997. Representative: Steven W. Gardner, 3574 Piedmont Rd., Atlanta, PA 30305. Transporting *machinery and building materials*, between El Paso, TX, on the

one hand, and, on the other, points in NM.

MC 153555 (Sub-1), filed January 26, 1981. Applicant: LEEVAN LEASING CORP., P.O. Box 35087, Fayetteville, NC 28303. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *malt beverages*, between Baltimore, MD, Charleston, SC, Detroit, MI, Norfolk, VA, New York, NY, points in Vanderburgh County, IN, Carteret and New Hanover Counties, NC, Lucas and Wood Counties, OH, and Atlantic County, NJ, on the one hand, and, on the other, Brunswick and Savannah, GA, and points in NC.

MC 153764 (Sub-1), filed January 26, 1981. Applicant: WILLIE L. TURNDER, d.b.a., TURNER TRUCK SERVICE, Route 1, 520 K-45, Blanchard, OK 73010. Representative: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034. Transporting *food and related products*, between Oklahoma City, OK, and points in TX.

MC 153864, filed January 28, 1981. Applicant: R & M EXPRESS, INC., 12330 Park Dr., Orient, OH 43146. Representative: Frank L. Calvary, 3066 N. Star Rd., Columbus, OH 43221. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Dresser Industries, Inc., of Dallas, TX.

MC 153924, filed January 26, 1981. Applicant: DONALD A. TUOZZO, d.b.a. DONALD A. TUOZZO TRUCKING., 10907 Fruitwood Drive Mitchellville, MD 20715. Representative: Donald A. Tuozzo (same address as applicant). Transporting *such commodities* as are dealt in or used by food and grocery business houses, between point in the U.S. under continuing contract(s) with The Shenandoah Apple Co-operative, Inc., of Winchester, VA.

MC 153925, filed January 22, 1981. Applicant: BASKIN'S TOURS, 600 N. Pine, Chicago, IL 60644. Representative: Willya Baskin Holmes (same address as applicant). As a *broker* in Cook County, IL, in arranging for the transporation of *passengers and their baggage*, beginning and ending at points in Cook County, IL, and extending to points in the U.S.

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Decided: February 13, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

MC 4484 (Sub-21), filed February 2, 1981. Applicant: CROWN TRANSPORT, INC., R.D. #2, Wampum, PA 16157. Representative: Donald A. Morken, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. Transporting *general commodities* (except classes A and B explosives, between points in the U.S. Member Hill dissents.

MC 19105 (Sub-66), filed January 26, 1981. Applicant: FORBES TRANSFER COMPANY, INC., P.O. Box 3544, Wilson, NC 27893. Representative: Vance T. Forbes (same address as applicant). Transporting *building materials*, between points in GA, MD, NC, SC, and VA.

MC 52704 (Sub-291), filed February 2, 1981. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *clay, concrete, glass or stone products*, (2) *waste or scrap materials* not identified by industry producing, and (3) *containers, container closures, and container components*, between points in the U.S. in and east of MN, IA, KS, OK, and TX. Member Hill dissents.

MC 84444 (Sub-8), filed January 26, 1981. Applicant: McCORMICK'S EXPRESS, a corporation, 3rd and Winslow Sts., Camden, NJ 08104. Representative: Joseph A. McCormick, (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between the facilities of (1) Formigil Corporation, (2) MacAndrews & Forbes Group (a Corporation), (3) Mafcote Specialities, Inc., (4) Thomas & Muller Co., Inc., and (5) Wilbur Chocolate Co., Inc., in Damden and Cumberland Counties, NJ, and Lancaster County, PA, on the one hand, and, on the other, points in the U.S.

Note.—Issuance of a certificate is conditioned upon prior or coincidental cancellation, at applicant written request of existing rights under MC 84444.

MC 40035 (Sub-2), filed February 2, 1981. Applicant: FALL RIVER & NEW BEDFORD EXPRESS CO., INC., Ridge Hill Rd., Assonet, MA 02702. Representative: Gerald K. Gimmel, 4 Professional Dr., Suite 145, Gaithersburg, MD 20760. Transporting *general commodities*, between points in CT, MA, and RI.

Note.—To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives it will expire 5 years from the date of issuance.

MC 82735 (Sub-6), filed January 26, 1981. Applicant: HUDSON-BERGEN TRUCKING CO., a corporation, 200 Central Avenue, Teterboro, NJ 07608. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Transporting *such commodities* as are dealt in or used by public warehouses, between points in the U.S., under continuing contract(s) with Marschall Warehouse Company, of Teterboro, NJ.

MC 94265 (Sub-373), filed January 26, 1981. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *foods and related products*, between points in IN, on the one hand, and, on the other, points in GA, MD, NC, PA, SC, and DC.

MC 97184 (Sub-3), filed February 2, 1981. Applicant: HI-WAY TRUCKING COMPANY, INC., 127–09 91st Ave., Richmond Hill, NY 11418. Representative: Bruce J. Robbins, 118–21 Queens Blvd., Forest Hills, NY 11375. Transporting *machinery*, between points in CT, MA, NJ, NY, and PA.

MC 97874 (Sub-3), filed January 27, 1981. Applicant: WINTER BROS., INC., 4725 N. 56th St., P.O. Box 80547, Lincoln, NE 68501. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Transporting *furniture and fixtures*, between points in CA and NE.

MC 99074 (Sub-6), filed February 2, 1981. Applicant: GREENWOOD MOTOR LINES, INC., P.O. Box 336, Greenwood, SC 29646. Representative: Donald E. Cross, 918 16th Street NW., Washington, DC 20006. Transporting *general commodities* (except classes A and B explosives), between points in AL, GA, NC, SC, and TN. Condition: Issuance of a certificate is subject to prior or coincidental cancellation, at applicant's written request, of Certificate of Registration MC 99074 Subs 1, 3, 4, and 5.

MC 107295 (Sub-1013), filed January 21, 1981. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting *building materials*, between points in Cooper and Howard Counties, MO, on the one hand, and, on the other, points in the U.S.

MC 107295 (Sub-1015), filed February 2, 1981. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting *plumbing goods*, between points in Fulton County, GA, Kane County, IL, and Somerset County, PA, on the one hand, and, on the other, points in the U.S.

MC 107295 (Sub-1016), filed February 2, 1981. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr,(same address as applicant). Transporting *lumber and wood*

products, between Sanford, ME, on the one hand, and, on the other, points in the U.S.

MC 108875 (Sub-3), filed February 2, 1981. Applicant: NYCONN HORSE TRANSPORTATION CORPORATION, P.O. Box 51, White Plains, NY 10605. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. Transporting (1) *non-exempt horses*, (2) *stable supplies and equipment*, and (3) *mascots, and personal effects* of attendants, trainers, and exhibitors, between points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC.

MC 114284 (Sub-100), filed January 26, 1981. Applicant: FOX-SMYTHE TRANSPORTATION CO., P.O. Box 82307, Oklahoma City, OK 73148. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. Transporting *food and related products*, between Oklahoma City, OK, on the one hand, and, on the other, points in AR, CA, CO, IL, IA, KS, LA, MN, MO, NE, NV, NM, SD, TX, UT, and WI.

MC 114334 (Sub-91), filed January 21, 1981. Applicant: BUILDERS TRANSPORTATION COMPANY, a corporation 3710 Tulane Rd., Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Bldg., Memphis, TN 38103. Transporting *steel pipe*, between points in Hardin County, TN, on the one hand, and, on the other, points in KS.

MC 116645 (Sub-34), filed February 2, 1981. Applicant: BULK TRANSPORTERS, INC., P.O. Box 127, Gilcrest, CO 80623. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80264. Transporting *commodities in bulk*, between points in CO, KS, MT, NE, NM, OK, TX, UT, and WY.

MC 134105 (Sub-560), filed January 27, 1981. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossville Ave., Chattanooga, TN 37408. Representative: James E. Elgin (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between the facilities of Tennessee Donut Corporation, at Nashville, TN, on the one hand, and, on the other, points in AL, AR, CO, DE, FL, GA, IA, IL, IN, KS, KY, LA, MD, MI, MN, MO, MS, NC, ND, NE, NJ, NY, OH, OK, PA, SC, SD, TX, VA, WI, WV, and DC.

MC 134304 (Sub-6), filed January 29, 1981. Applicant: LES DARR TRUCKING CO., a corporation, 2233 Talley Way, Kelso, WA 98626. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *lumber and wood products*, between points in OR and WA.

MC 134604 (Sub-8), filed January 21, 1981. Applicant: HOWARD DULLUM, Gardner, ND 58036. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *chemical and related products*, between points in Woodbury County, IA, on the one hand, and, on the other, points in NE, SD, and MN.

MC 140334 (Sub-6), filed January 26, 1981. Applicant: AM-CAN TRANSPORT SERVICE, INC., P.O. Box 859, Anderson, SC 29621. Representative: John T. Wirth, 717–17th St., Ste. 2600, Denver, CO 80202. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Michelin Tire Corporation, of Greenville, SC.

Note.—Issuance of a permit is subject to prior or coincidental cancellation, at applicant's written request of MC 140334 (Subs. 1 and 2).

MC 140345 (Sub-2), filed January 19, 1981. Applicant: PUROLATOR ARMORED, INC., 255 Old New Brunswick Rd., Piscataway, NJ 08859. Representative: Peter A. Greene, 1920 N St., NW., Washington, DC 20036. Transporting *articles of unusual value*, between points in the U.S., under continuing contract(s) with shippers who require that their traffic be transported in armored vehicles under armed guard.

MC 143594 (Sub-29), filed January 29, 1981. Applicant: NATIONAL BULK TRANSPORT, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. Transporting *dispersing agents*, between points in the U.S.

MC 145384 (Sub-54), filed January 27, 1981. Applicant: ROSE-WAY, INC., 1914 E. Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *machinery*, between points in Story, Polk, and Marion Counties, IA, on the one hand, and, on the other, points in the U.S., and (2) *chemicals and related products*, between points in Orange County, CA, on the one hand, and, on the other, points in the U.S.

MC 145494 (Sub-5), filed February 2, 1981. Applicant: EDINA CARTAGE COMPANY, a corporation, P.O. Box 42, Mauricetown, NJ 08329. Representative: Laurence J. DiStefano, Jr., 1101 Wheaton Ave., Millville, NJ 08332. Transporting *food and related products*, between the facilities of Lever Brother Company, in the U.S., on the one hand, and, on the other, points in the U.S.

MC 146145 (Sub-3), filed January 29, 1981. Applicant: TOWER TRANSPORT, INC., 528 South Cumberland Ave., Park Ridge, IL 60068. Representative: Edward G. Bazelon, 39 S. LaSalle St., Chicago, IL 60603. Transporting *malt beverages*, and *food and related products*, between Chicago and Huntley, IL, on the one hand, and, on the other, points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI.

MC 147264 (Sub-12), filed January 21, 1981. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood Avenue, Muncie, IN 47304. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *bananas*, between points in Charleston County, SC, and Hillsborough County, FL, on the one hand, and, on the other, points in IL, IN, KY, MI and OH.

MC 147965 (Sub-3), filed January 27, 1981. Applicant: GUNTHER H. M. KLIESE, d.b.a., P & M ENTERPRISES, 10650 SW Wilsonville Rd, Wilsonville, OR 97070. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave, Portland, OR 97210. Transporting *food and related products*, between Hackettstown, NJ, Chicago, IL and Waco, TX, on the one hand, and, on the other, points in OR, WA and CA.

MC 148075 (Sub-4), filed January 26, 1981. Applicant: CECIL E. KING, JR., d.b.a., CECIL KING TRUCKING, Route 2, Seagrove, NC 27341. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. Transporting *tire treads and rubber compounds*, between points in the U.S., under continuing contract(s) with Bandag Incorporated, of Muscatine, IA.

MC 148655 (Sub-9), filed February 2, 1981. Applicant: ERIEVIEW CARTAGE, INC., 100 Erieview Plaza, P.O. Box 6977, Cleveland, OH 44101. Representative: E. Stephen Heisley, 666 Eleventh St., NW, No. 805, Washington, DC 20001. Transporting *petroleum, natural gas and their products; lumber and wood products*, and *chemicals, and related products*, between points in Baxter County, AR, on the one hand, and, on the other, points in the U.S.

MC 149324 (Sub-1), filed January 29, 1981. Applicant: BLACK ARROW TRANSPORT, INC., 107 Abbott St., Springfield, MA 01118. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. Transporting *machinery*, between points in CT, on the one hand, and, on the other, points in the U.S.

MC 112304 (Sub-251), filed January 27, 1981. Applicant: ACE DORAN

HAULING & RIGGING CO., a corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S. in and east of MN, IA, MO, KS, OK and TX, on the one hand, and, on the other, points in the U.S.

MC 150735 (Sub-3), filed January 19, 1981. Applicant: BESTWAY TRANSPORT CO., a corporation, Route No. 2, Willard, OH 44890. Representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. Transporting *food and related products*, between points in Sandusky County, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 150954 (Sub-11), filed January 27, 1981. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Drive, Suite 515, San Antonio, TX 78217. Transporting *lumber and wood products* and *building materials*, between points in the U.S., under continuing contract(s) with Five Star Lumber Co., Inc., of Spokane, WA.

MC 153565 (Sub-1), filed January 27, 1981. Applicant: M. L. TRANSPORT DIVISION OF M. L. ENTERPRISES, INC., Route 1, P.O. Box 282 GA, Pell City, AL 35215. Representative: Geogre M. Boles, 727 Frank Nelson Bldg., Birmingham AL 35203. Transporting (1) *metal products* and (2) *building materials*, between points in the U.S. under continuing contracts with Engineered Components, Inc., of Houston, TX, and Jemison, AL, and Culp Metals, Inc., of East Gadsden, AL.

MC 153665 (Sub-1), filed January 28, 1981. Applicant: RICHARD WAGNER AND VIOLET WAGNER, d.b.a., RW TRUCKING, R.R. 1, Box 61, Frankfort, IL 60423. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. Transporting *general commodities*, between points in the U.S., under continuing contract(s) with Morgan Container Corp., and Mor-Cor Company, of Chicago, IL.

MC 153834 (Sub-1), filed Feb. 2, 1981 Applicant: ATLANTA DISPATCH AND DISTRIBUTION, INC., 4779 Fulton Industrial Blvd., Atlanta, GA 30336. Representative: Clinton J. Altman, Jr. (same address as applicant). Transporting *general commodities*, between points in GA.

Note.—To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives it will expire 5 years from the date of issuance.

MC 153875 (Sub-1), filed Feb. 2, 1981. Applicant: O'NEIL BROTHERS DISTRIBUTING COMPANY, a Corporation, P.O. Box T, Akron, CO 80720. Representative: Nancy P. Bigbee, 1125 University Bldg., 910–16th St., Denver, CO 80202. Transporting *alcoholic beverages*, between points in the U.S., under continuing contract(s) with Van Munching & Co., Inc., of New York, NY, and B & K Distributing Co., of Steamboat Springs, CO.

MC 153885 (Sub-1), filed January 30, 1981. Applicant: THE GREAT AMERICAN TRUCKING COMPANY, INC., P.O. Box 15164–B, Orlando, FL 32858. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Ore-Ida Foods, Inc., of Boise, ID.

Vol. No. OP3–174

Decided: February 17, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 152915F, filed November 24, 1980, previously published in the FR of December 18, 1980 and January 28, 1981. Applicant: SUNNYDALE DISTRIBUTING, INC., 450 Hart-Albin Bldg., Billings, MT 59103. Representative: Daniel J. Sweeney, 1750 Pennsylvania Ave., NW, Washington, DC 20036.

Note.—The republication of January 28, 1981 in this proceeding should be disregarded; the publication of December 18, 1980 is correct.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6071 filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 24]

Restriction Removals; Decision-Notice

Decided: February 18, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 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, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

No. MC 10169 (Sub-No. 6)X, filed February 9, 1981. Applicant: HATCHER TRUCKING COMPANY, INCORPORATED, 1515 11th Street, N. E., Roanoke, VA 24012. Representative: Nancy Pyeatt, 815 15th Street, NW., Washington, DC 20005. Applicant seeks to remove restrictions (1) in its lead certificate and Subs 4 and 5, which authorize transportation of general commodities (with the usual exceptions) by removing all exceptions except classes A and B explosives; (2) in Sub-No. 4, by replacing the present one-way authority with radial authority and by broadening Bassett, and Rocky Mount, Va; to Henry, and Franklin Counties, VA, and (3) in Sub-No. 5F, by including Danville in present authority to serve points in Pittsylvania County (except Danville), VA.

No. MC 16682 (Sub-No. 99)X, filed February 6, 1981. Applicant: MURAL TRANSPORT, INC., P.O. Box 1785, North Brunswick, NJ 08902. Representative: W. C. Mitchell, 370 Lexington Avenue, New York, NY 10017. Applicant seeks to remove restrictions in its lead and Sub-Nos. 59, 63, 68, 69, 78, 79, 86, 87, 88, 89, 92F, 93F, 94F, 95F, 96F, and 98 certificates to expand its one-way authority to radial authority, in the lead certificate, (a) between St. Louis, MO, and points in 2 States; between Beatrice, NE, and points in 10 States; between TX, and points in the US; between AR and points in the US; between Colorado, and points in 21 States, and part of LA; between Oklahoma City, OK, and points in 12 States; between Orange, Union City, and Union, NJ, and points in the US;

between Fayetteville and Syracuse, NY, and 7 cities, and points in CA and FL; between Fayetteville, KY, and points in 2 States, (b) in Sub-No. 59, between Los Angeles and Orange Counties, CA and points in the US (except points in AZ, ID, OR, MT, WA, WY, El Paso County, TX, part of UT, Douglas and Ormsby Counties, NV and part of NV); between Los Angeles and Orange Counties, CA and points in the US, (c) in Sub-No. 63, between points within the Los Angeles, CA, commerical zone and points in 31 States and DC, (d) in Sub-No. 68 between TN and KY, and points in the US, (e) in Sub-No. 69, between Fort Smith, AR, and points in the US, (f) in Sub-No. 78, between Omaha, NE, Burlington, IA, and Chicago, IL, and Kansas City, MO—Kansas; and between Kansas City, MO—Kansas City, KS, commercial zone, and points within 25 miles thereof, and points in 7 States, (g) in Sub-No. 79, between a plantsite at Des Moines, IA, and points in the US, (h) in Sub-No. 86, between 3 Counties in AR, and points in the US, (i) in Sub-No. 87, Brattleboro, VT, 5 MA cities, 3 NY cities, 2 PA cities, and 2 NJ cities, and points in 6 States and DC and part of PA between Weehawken, NJ, and points in 10 States and DC; (j) in Sub-No. 88, between Pinedale and Montebello, CA, and points in 25 States, (k) in Sub-No. 89, between 2 facilities at Tacoma and Lakewood (Pierce County) WA, and points in 28 States; (l) in Sub-No. 92F, between a facility at Louisville, KY and points in the US (except part of WI, part of TN, Bomcombe County, NC, and points in IL, IN, MI, and OH), (m) in Sub-93F between South Grafton, MA, and points in 2 counties in NJ and NY, and points in the US; (n) in Sub-94F between 8 cities and points in the US; (o) in Sub-95F between San Fernando, CA, and Belleville, WI; (p) in Sub-96F, between a plantsite at Louisville, KY, and points in IL, IN, MI, OH, part of WI, part of TN and Bumcombe County, NC, and (q) in Sub-98, between Chicago, IL, and points in 12 States, in parts (1) and (2); between Kansas City, MO, and points in 6 States in part (3); between Kansas City, MO–KS, commercial zone, and points in 15 States, in parts (4) and (5); between New York, NY and points in 9 States, in part (6); between New York, NY and Houston, TX, Oklahoma City, OK, and points in CA, in part (7); between New York, NY and points in 3 States, in part (8); between DE, MD, NJ, NY (other than New York, NY), PA, and DC, and points in 9 States, in part (9); between CT, ME, MA, RI, and VT, and points in a State, in part (10); between 11 named States and DC (other than New York, NY), and points in AZ, NM, and TX, in part (11); between 7 States (other than New York, NY), and points in CO, KS, and OK, in part (12); between 6 States, and points in CT, DE, NJ, and RI, in part (13); between 6 States, and points in ME, NH, and VT, in part (14); between 8 States, and points in MD, MA, and DC, in part (15); between MI, and points in 5 States, in part (16); between CO, and points in 26 States, and DC, in part (25); and between Oklahoma City, OK, and points in 20 States, and DC in part (26). Applicant seeks to remove restrictions prohibiting service from points in MI, to NY and Long Island City, NY, in the lead certificate, sheet 4. Applicant also seeks to remove all exceptions in Sub-98, parts (9), (10), (11), (12), (13), (15), (16), (25), and (26), which prohibit service from and to various combinations of States in the authorized territories, and to remove AK and HI as exceptions on the nationwide authorities.

MC 22311 (Sub-30)X, filed February 9, 1981. Applicant: A. LINE, INC., P.O. Box 765, Hammond, IN 46325. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. Applicant seeks to remove restrictions from its lead certificate which was acquired in MC–F–77755, (issuance of a certificate is pending) which authorizes the transportation of iron and steel articles, contractor's equipment, and scrap metals from and to specified points in IL, IA, IN, MI, and MO, to (1) change its commodity description to "those commodities which because of their size or weight require the use of special handling or equipment and self-propelled articles," (2) expanding its one-way authority to radial authority, and (3) broadening a base point in a described portion of Porter County, IN, to "Porter County, IN."

MC 60186 (Sub-72)X, filed February 12, 1981. Applicant: NELSON FREIGHTWAYS, INC., P.O. Box 1358, 47 East Street, Rockville, CT 06066. Representative: Edward G. Villalon, 1032 Pennsylvania Building, 13th & Pennsylvania Ave. NW., Washington, DC 20004. Applicant seeks to remove restrictions in its Sub-69F certificate to (1) broaden the commodity description from general commodities (with the usual exceptions and automobiles) to "general commodities (except classes A and B explosives)," and (2) remove the restriction limiting transportation to traffic having an immediately prior or subsequent movement by rail in its authority between numerous northeastern States.

MC 71593 (Sub-85)X, filed February 9, 1981. Applicant: FORWARDERS TRANSPORT, INC., 1608 East Second Street, Scotch Plains, New Jersey 07076. Representative: David W. Swenson (same as applicant). Applicant seeks to remove restrictions from its Sub-No. 72F certificate to (1) remove all exceptions in its general commodities authority except "Classes A and B explosives," and (2) remove the restriction limiting service to traffic moving on bills of lading of named freight forwarders, on its nationwide irregular route authority.

MC 115821 (Sub-56)X, filed February 11, 1981. Applicant: BEELMAN TRUCK CO., P.O. Box 93, St. Libory, IL 62282. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., 411 North 7th Street, St. Louis, MO 63101. Applicant's Sub-No. 45 certificate authorizes the transportation of dry bulk commodities (with exceptions) from points in that part of IL on and south of US Hwy 36, to points in that part of MO located on and south of US Hwy 36, on and east of US Hwy 63, and on and north of US Hwy 60. Applicant seeks to remove restrictions which prohibit the transportation of cement, fertilizer, starch, sugar, products of corn, crushed rock and stone, haydite, acids and chemicals (including starch), wood sawdust, wood chips, wood shavings, and sugar and blends thereof moving from and to specified points within the above described territory, and seeks authority to conduct radial operations between the above described territory.

MC 118803 (Sub-26)X, filed February 6, 1981. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Road, Kings Park, NY 11754. Representative: Morton E. Kiel, Two World Trade Center, Suite 1832, New York, NY 10084. Applicant seeks to remove restrictions in its Sub-Nos. 9, 11F, 12F, 14F, 15F, 16F, 17F, 18F, 19F and 20F permits by (a) broadening its commodity descriptions from roofing materials and floor coverings to "building materials, and lumber and wood products" in Sub-No. 9, from foil and scrap to "metal products and waste or soap materials" in Sub-No. 12F, from foodstuffs to "food and related products" in Sub-No. 14F, from dry plastic materials to "rubber and plastic products and chemicals and related products", in Sub-No. 17F, (2) eliminate the "except commodities in bulk" restriction in all permits, and (3) broaden the territorial authority to between points in the U.S. under continuing contract(s) with named shippers.

MC 135045 (Sub-3)X, filed February 9, 1981. Applicant: BERTSCH TRUCKING, INC., Hillsboro, ND 58045. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Applicant seeks to remove restrictions

in its No. MC 123544 (Sub-No. 11) permit which authorizes the transportation of farm machinery and farm implements and parts for farm machinery and farm implements, from Fargo, ND and ports of entry on the international boundary line between the US and Canada located at Neche and Pemblin, ND, and Noyes, MN, to points in 14 states and DC. Applicant seeks to broaden its territorial authority to "between points in the US" under a continuing contract(s) with a named shipper; and, to remove restrictions limiting service to the transportation of shipments originating at or destined to the facilities of a named shipper located at Winnipeg, Manitoba, Canada.

MC 141917 (Sub-2)X, filed February 9, 1981. Applicant: LEO J. UMERLEY, INC., 9813 Philadelphia Rd., Baltimore, MD 21237. Representative: Dean N. Wolfe, 4 Professional Dr., Suite 145, Gaithersburg, MD 20760. Applicant seeks to remove restrictions in its No. MC 123972, Sub-Nos. 1, 13, and 16F permits to broaden the commodity descriptions (1) from slag and ground limestone, in Sub-No. 1, and cement, in Sub-No. 16, to "clay, concrete, glass, or stone products", and from (a) asphalt shingle, siding, roll roofing, waterproof building paper, and wallboard, (b) insulating materials, in mixed loads with the commodities named in (a), and (c) roofing, siding, sealing, insulating, wall, flooring, and ceiling materials, to "building materials" in Sub-No. 13; (2) remove the "in bulk, in dump vehicles", "in truckloads" and "except commodities in bulk" restrictions from the commodity descriptions in Sub-Nos. 1, 13, and 16F and (3) broaden the territorial description in each permit to "between points in the United States under continuing contract(s) with named shippers".

MC 143085 (Sub-7)X, filed February 5, 1981. Applicant: THE DANIEL COMPANY OF SPRINGFIELD, 3725 W. Division, Springfield, MO 65803. Representative: Bruce McCurry, DICKEY, ALLEMANN & McCURRY, 910 Plaza Towers, Springfield, MO 65804. Applicant seeks to remove restrictions in its Subs 3F, 4F, 5F, and 8 certificates by (1) broadening its commodity descriptions in Subs 3F and 4F from general commodities (with exceptions) to "general commodities (except Class A and B explosives)" and in Sub 5F and Sub 8 by eliminating the restrictions "(except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration" to the commodity description "such commodities as are dealt in by chain grocery and food business houses"; (2) replacing authority to serve named plantsites or cities with county-wide authority and one-way with radial authority as follows: Sub 3F, part (a) between Greene County, MO, (Springfield, MO) and Vanderburgh County, IN (Evansville, IN); part (b) between points in Greene County, MO and Vanderburgh County, IN and points in TX and (c) between Vanderburgh, IN and points in MI; Sub 4F, between points in Greene County, MO and Vanderburgh County, IN and points in CA and OR; and in Sub 8 between points in Greene County, MO and points in AL, AR, AZ, CA, CO, FL, GA, KS, KY, LA, MS, NM, NC, OK, SC, TN, TX and VA; (3) removing the restrictions in Subs 3F, 4F, and 8 limiting traffic to that originating at or destined to named facilities.

MC 143591 (Sub-3)X, filed February 9, 1981. Applicant: FLOYD WILD, INC., P.O. Box 91, Marshall, MN 56258. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Applicant seeks to remove restrictions from its Sub-No. 9 permit which authorizes the transportation of powdered eggs, containing additives and commodities exempt from economic regulation in mixed loads with powdered eggs from specified points in MN to points in 5 central States, by (1) changing the commodity description to "food and related products" and (2) expanding the territorial authority to between points in the US, under continuing contract(s) with a named shipper.

MC 144345 (Sub-22)X, filed February 5, 1981. Applicant: DON'S FROZEN EXPRESS, INC., 3820 Airport Ave., Caldwell, ID 83605. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Applicant seeks to remove restrictions in its lead, and Sub-Nos. 8, 9, 10, 11, 12, 13, 14, 15, 17, and 19 certificates and in the lead certificate (1) broaden the commodity description from dairy products to "food and related products", (2) in part (1) delete the facility limitation and replace its city location with Canyon County, ID, (3) in part (2) replace Grand View, Twin Falls, Boise, and Caldwell, ID with Owyhee, Twin Falls, Ada, and Canyon Counties, ID, (4) broaden the one-way authority to radial authority between (a) Canyon County, ID and points in CA, OR, and WA in part (1) and, (b) points in CA, NV, OR, and WA, and, the counties in (3) above in part (2), and (5) delete the restriction against the transportation of commodities in bulk. In Sub-No. 8 to (1) broaden the commodity description from furniture and window covering and materials and supplies used in the manufacture of commodities named above to "furniture or fixtures", and (2) broaden the one-way authority to radial authority between points in Los Angeles, Orange, Riverside, and San Bernadino Counties, CA, and points in Canyon County, ID; In Sub-No. 9 to (1) broaden commodity description from windows and materials and supplies used in the manufacture of windows to "clay, concrete, glass or stone products", (2) delete the facilities restriction and replace its city location with Canyon County, ID, (3) broaden one-way authority to radial authority between points in Los Angeles, and Orange Counties, CA, and Canyon County, ID; in Sub-No. 10 to broaden the commodity description to "food and related products" from dairy products, delete the facilities restriction and replace its city location with Canyon County, ID, broaden the one-way authority to radial authority between Canyon County, ID, and points in Utah; in Sub-No. 11 to (1) broaden commodity description from plastic containers, and materials and supplies used in the manufacture of plastic containers, soaps, and detergents, soaps, detergents, cleaning compounds and fabric softeners to: "rubber and plastic products and chemicals and related products," and (2) delete the facilities restriction in part (2); (3) broaden one-way authority to radial authority between (1) CA, OR, WA, and UT, and points in Ada, and Canyon Counties, ID, and (2) Canyon County, ID, and, points in CA, NV, OR, UT, and WA; In Sub-No. 12 to (1) delete the facilities restriction and replace Boise, ID with Ada County, ID, broaden one-way authority to radial authority between points in CA, OR, UT, and WA, and, Ada County, ID; In Sub-No. 13 to (1) broaden commodity description from frozen potato products to "food and related products", (2) eliminate the facilities restriction and replace its city location at Nampa, ID with Canyon County, ID; (3) broaden Othello and Moses Lake, WA, to Adams and Grant Counties, WA, (4) broaden one-way authority to radial authority to between Canyon County, ID, and, points in CA, NV, OR and WA, (5) delete the restriction requiring traffic moving between the facilities at named points; In Sub-No. 14 to (1) broaden commodity description from cleaning compounds, scouring compounds, washing compounds, buffing compounds, polishing compounds, sodium hypochlorite solution, soap base compounds, fabric softeners, plastic bags and filters to "chemicals and related products, rubber and plastic products, and, pulp, paper and related

products"; (2) delete the facilities restriction and replace its city location with Santa Clara County, CA, (3) broaden one-way authority to radial authority between Santa Clara County, CA, and points in OR, ID, UT, and WA; In Sub-No. 15 to (1) broaden the commodity description from foodstuffs, foodstuff containers, and supplies used in the packaging of foodstuffs to "food and related products", (2) delete the facilities restriction and replace its city locations at Hermiston, OR, Caldwell, Mampa, Burley, Aberdeen, Idaho Falls and Heyburn, ID and Clearfield, UT, with Umitilla County, OR, Canyon, Cassia, Bingham, Bonneville, and Minedoka Counties, ID, and Sauis County, UT, (3) delete the mechanical refrigeration restriction; In Sub-No. 17 to (1) broaden the commodity description from meats, meat products, meat byproducts and articles distributed by meat packing houses as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* (except hides and commodities in bulk) to "food and related products", (2) delete the facilities restriction and replace its city locations at Boise, ID and Walla Walla, WA, with Ada County, ID, and Walla Walla County, WA, (3) broaden the one-way authority to radial authority, between Ada County, ID and Walla Walla County, WA, and points in ID, WA, OR, CA, AZ, and NV, (4) delete the restriction against commodities in bulk; In Sub-No. 19 to (1) broaden the commodity description from frozen fruit juices to "food and related products", (2) delete the facilities restriction and replace its city location at Ventura, CA, with Ventura County, CA, and, (3) broaden one-way authority to radial authority between Ventura County, CA, and, points in ID, OR, UT, and WA.

MC 145384 (Sub-55)X, filed February 6, 1981. Applicant: ROSE–WAY, INC., 1914 East Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Applicant seeks to remove restrictions in its permits MC–145489 Sub-Nos. 2F and 3F to (1) broaden the commodity description to "metal products," from aluminum and aluminum articles, in Sub-No. 2F, and aluminum ingots and aluminum scrap, in packages, in Sub-No. 3F, and, (2) broaden the territorial scope of service to "between points in the United States," under continuing contract(s) with named shippers.

MC 145441 (Sub-145)X, filed February 13, 1981. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, P.O. Box 5130, North Little Rock, AR 72119. Applicant seeks to remove restrictions in its Sub-No. 119F certificate, which authorizes the transportation of general commodities (except commodities in bulk, classes A and B explosives, and those requiring special equipment) to (1) eliminate the restriction limiting service to a named shipper's association and its members' facilities at points in IN, KY, and OH, and, (2) authorize radial authority in lieu of existing one-way service between points in IN, KY, and OH, and points in the United States.

MC 146499 (Sub-4)X, filed February 5, 1981. Applicant: R. LEON PETERSON TRUCKING, INC., 835 North 600 East, P.O. Box 489, Spanish Fork, UT 84660. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. Applicant seeks to remove restrictions in its Sub-Nos. 1F and 3F permits to broaden the commodity descriptions (a) in Sub-No. 1F, from high pressure, reinforced rubber hose and equipment, materials, and supplies used in the manufacture, installation, and distribution of high pressure, reinforced rubber hose to "rubber and plastic products", and (b) in Sub-No. 3F, from (1) resin coated sands and chemicals (except commodities in bulk) and (2) such commodities as are used by foundries (except those described in part I and commodities in bulk) to "such commodities as are used by foundries." Applicant also seeks to remove restrictions in both permits to broaden the territorial description to "between points in the United States", under continuing contract(s) with named shippers.

MC 149338 (Sub-1)X, filed February 9, 1981. Applicant: FLEMING TRANSPORT, INC., 222 Airport Road, Butler, PA 16001. Representative: William A. Gray, 2310 Grant Building, Pittsburg, PA 15219. Applicant seeks to remove restrictions in its lead Permit to (1) broaden its commodity description from liquid asphalt and liquid paving materials, in bulk, in tank vehicles, to "petroleum, natural gas and their products" and (2) broaden the territorial scope to between points in the U.S. under continuing contract(s) with named shippers.

[FR Doc. 81-6077 Filed 2-23-81; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 23]

Restriction Removals; Decision-Notice

Decided: February 17, 1981.

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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, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 109 (Sub-4)X, filed February 5, 1981. Applicant: CAMPBELL's AUTO EXPRESS, Lamb's Road and Laurel Drive, Pitman, NJ 08071. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the regular route portion by expanding the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)" and the territorial description to serve all intermediate points over regular routes between Philadelphia, PA, and Clayton, NJ; and (2) broaden the irregular route portion by expanding the commodity description in its irregular route authority from phonograph records, jackets, sleeves, labels, etc. to "such commodities as are dealt in or used by manufacturers and distributors of sound, communication, educational, or entertainment materials", removing the plantsite limitations at Pitman, NJ and Edison, NJ and expanding the territorial description

to the county-wide authority of Gloucester County, NJ and Middlesex County, NJ.

MC 11207 (Sub-574)X, filed February 6, 1981. Applicant: DEATON, INC., 317 Avenue W., Post Office Box 938, Birmingham, AL 36302. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Applicant seeks to remove restrictions in its Sub-No. 504F certificate, which authorizes the transportation of general commodities, with the usual exceptions, between points in AL, GA, LA, MS, and TN, restricted to traffic having an immediate prior or subsequent movement by rail, by (1) removing the ex-rail restriction and (2) excluding only classes A and B explosives from the commodity description.

MC 21779 (Sub-10)X, filed February 6, 1981. Applicant: J. P. GRAHAM TRANSFER, INC., 429 Constitution Blvd., Fallston, PA 15066. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219. Applicant seeks to remove restrictions in its lead certificate and Sub-Nos. 1, 4, 5, 6, 7, 8, and 9, to (1) authorize radial service primarily between points in Pennsylvania and several midwestern and eastern States in lieu of one-way authority in all referenced authorities, and (2) substitute plantsite restrictions for county-wide authority: Beaver County, PA, for New Brighton and Beaver Falls, PA, in Sub-No. 1; Beaver County, PA, and Lewis County, WV, for Monaca, PA, and Jane Lew, WV, in Sub-No. 4; Allegheny County, PA, for Carnegie, PA, in Sub-No. 5; Allegheny and Beaver Counties, PA, for Ambridge, Beaver Falls, and Koppel, PA, in Sub-No. 6 and Pittsburgh and Aliquippa, PA in Sub-No. 7; Beaver County, PA, for Beaver Falls, PA, in Sub-Nos. 8 and 9.

MC 25869 (Sub-179)X, filed February 5, 1981. Applicant: C.O.D.E., INC., 4800 N. Colorado Blvd., Denver, CO 80216. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Applicant seeks to remove restrictions in its Sub-Nos. 150F and 151F certificates by (A) broadening the commodity description in Sub 150F from general commodities, with the usual exceptions, to "general commodities (except classes A and B explosives)", and in Sub 151F, part (2), from iron and steel articles to "such commodities as are dealt in or used by manufacturers and distributors of iron and steel articles"; (B) removing the plantsite limitation in Sub-150F at or near Chicago, IL; (C) replacing one-way authority with radial authority: in Sub 150F between Chicago, IL and points in IA, Kansas City, MO, Albuquerque, NM, and; in Sub 151F, part (1)(a), between points in Philadelphia, PA and points in OH, and points in CO, KS, MN, NE, IL and IA; (b) between Omaha, NE and Denver, CO; and (c) between Chicago, IL and points in NE, CO and IA (with exceptions); and in part (2) between Chicago, IL and points in CO; and (D) changing the restriction in Sub 151F part 1(a) to traffic originating at or destined to the facilities of a named shipper in OH.

MC 26396 (Sub-389)X, filed January 21, 1981, previously notice in the **Federal Register** of February 3, 1981, republished as corrected this issue. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Applicant seeks to remove restrictions in its Sub-Nos. 356F and 361F to (A) broaden the commodity description from (1) chemicals, chemical additives, plastics, resins, drilling mud, and drilling mud additives to "chemicals and related products, rubber and plastic products, and Mercer commodities in Sub-No. 356F, (B) broaden the commodity description from drilling mud and drilling mud additives (except in bulk, in tank vehicles) to "Mercer commodities" in Sub-No. 361F, and (C) delete the restrictions against the transportation of commodities "in bulk" and "in tank vehicles" in both authorities. The purpose of this republication is to correctly state the docket number involved in this proceeding as MC 26396 (Sub-389)X in lieu of MC 29396 (Sub-389)X.

MC 36556 (Sub-49)X, filed February 5, 1981. Applicant: BLACKMON TRUCKING, INC., P.O. Box 186, Somers, WI 53171. Representative: Fred H. Figge (same address as applicant). Applicant seeks to remove restrictions in its lead and Sub-Nos. 41F, 42F, 44F and 46F certificates to (1) broaden its commodity description (a) from canned goods, canningfactory supplies and equipment; canned goods and such commodities as are dealt in or used by maufactures of canned goods, and canned and prepared foodstuffs (except in bulk, in tank vehicles), to "food and related products, and materials equipment and supplies used in the manufacture and distribution thereof", in the lead certificate (sheet 4), Sub-No. 44F, and Sub-No. 46F, respectively; (b) from pet food (except in bulk), to "pet food, and materials, equipment and supplies, used in the manufacture and distribution thereof", in Sub-No. 41F; (2) change its one-way authority to radial authority between several specified States; and replace specified plantsites or cities with county-wide or commercial zone authority (a) a named plantsite at St. Joseph, MO, with Buchanan County, MO, Jefferson, WI, with Jefferson County, WI, FT. Dodge IA, with Webster County, IA, and Sebring, OH, with Mahoning County, OH, in Sub-No. 41F; (b) a named plantsite at Mount Vernon, and St. Joseph, MO, with Lawrence and Buchanan Counties, MO, a named plantsite at Mansfield, TX, with Tarrant County, TX; and a named plantsite at Waupun, Oconomowoc, and Menomanee Falls, WI, with Fond du Lac, and Waukesha Counties, WI, in Sub-No. 42F, parts (a), (b), and (c), respectively; (c) a named plantsite at 8 named cities in WI, with St. Croix, Marinette, Oconto, Shawano, Fond du Lac, Calumet, and Waukesha Counties, WI; a named plantsite at Louisville, KY and St. Louis, MO with authority to serve their respective commercial zones, a named plantsite at Brownsville WI, with Dodge County, WI, in Sub-No. 44F and (d) 5 named cities in WI, with Sheboygan, Dodge, Jefferson, and Fond du Lac Counties, WI, in Sub-No. 46F; and (3) eliminate the restriction against transportation of commodities in bulk, and shipments originating at the named origins, in Sub-No. 42F.

MC 48421 (Sub-17)X, filed February 4, 1981. Applicant: ESCRO TRANSPORT LTD., 275 Mayville Avenue, Buffalo, NY 14217. Representative: Robert D. Gunderman, Suite 710 Statler Bldg., Buffalo, NY 14202. Applicant seeks to remove restrictions from its lead and Sub-No. 8, 9, 10, 12, 13F, and 15F, certificates to (1) remove the exceptions in its general commodity authority "except classes A and B explosives" in the lead, (2) broaden the commodity descriptions to "food and related products" from cheese, butter, chili con carne, and meat in the lead; meats, meat products, and meat by-products, dairy products and articles distributed by meat packing houses as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 in the lead and Sub-Nos. 8, 9, and 10; dairy products, frozen prepared foods, and prepared foods and fresh meats and fish (except in bulk) in Sub-No. 12; and foodstuffs in Sub-No. 15F. Applicant also seeks to (1) expand its territory from cities and plantsites to counties: Erie County, NY, for Buffalo, NY, in the lead and Sub-Nos. 8, 10, 12 and 15F, and Lancaster, NY in the lead; Niagara County, NY, for Lockport, Newfane, and Niagara Falls, NY; Orleans County, NY, for Medina, NY, Monroe County, NY, for Rochester, NY, McKean County, PA, for

Bradford and Eldred, PA. and Bradford County, PA. for Sayre and Towanda, PA. Chemung County, NY. for Elmira, NY in the lead and Sub-No. 9: Bergen County, NJ. for Edgewater, NJ. Essex County, NJ. for Fairfield and Newark, NJ. Hudson County, NJ. for Hoboken and Jersey City, NJ. and Passaic County, NJ. for Passaic, NJ. in Sub-No. 12: Cumberland County, PA. for Dauphin Distribution Services Co., at or near Mechanicsburg and Hampden Township, PA: (2) change in one-way authority to radial authority in the above certificates between specified points primarily in NY, PA. and NJ. (3) eliminate the restriction limiting service to traffic having a prior movement by connecting carriers or by rail in the lead and Sub-Nos. 9 and 10, (4) eliminate the restriction limiting service to the transportation of traffic originating at named origins and destined to the named destinations in Sub-No. 12. (5) remove the in vehicles equipped with mechanical refrigeration restriction in Sub-Nos. 12, 13F, and 15F, (6) allow service at all intermediate points between Erie and Niagara Counties, NY in its lead, sheet No. 2, and (7) eliminate the in bulk restriction in Sub-No. 13F.

MC 48958 (Sub-218)X, filed February 6, 1981. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 E. 51st Ave., Denver, CO 80216. Representative: Morris G. Cobb, P.O. Box 9050, Amarillo, TX 79189. Applicant seeks to removed restrictions from its certificates in Sub-Nos. 116, 123, 133, 134, 138, 149, 151F, 152F, 153F, 158F, 161F, 165F, 166F, 167F, 170F, 175F, 176F, 177F, 179F, 182F, 183F, 184F, 198F, 199F, 206F, 212F, 213F, and 214F, which authorize the transportation of numerous specified commodities from and to specified points in IA, IN, IL, TX, CO, NE, KS, MO, MN, WI, NM AZ, CA, NV, OH, AR, UT, OK, WY, ID. Applicant seeks radial authority where only one-way authority exists in the above-numbered subs.

MC 52750 (Sub-27)X, filed February 2, 1981. Applicant: BLUE LINE TRANSPORTATION CO., INC., P.O. Box 11125, Portland, OR 97211. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210. Applicant seeks to remove restrictions in its Sub-Nos. 22, 23F, 24F and 26F certificates to broaden the commodity description as follows: in Sub-No. 22 from cannery cuttings, cannery peelings, cannery waste, distillery grains, mash, feed and fruit and vegetable juices, in bulk, in tank vehicles, and in Sub-Nos. 23F, and 24F from feed and feed ingredients to "food and related products"; and in Sub-No. 26F from asphalt and asphalt products to "petroleum; natural gas and their products".

MC 53965 (Sub-184)X, filed February 6, 1981. Applicant: GRAVES TRUCK LINE, INC., P.O. Box 1387, Salina, KS 67401. Representative: Bruce A. Bullock ANB Freight System, Inc., One Woodward Avenue, Detroit, MI 48226. Applicant seeks to remove restrictions in its Sub-Nos. 136, 148F, 171F, and 179F certificates to broaden the commodity descriptions from meats, meat products, meat by-products, and articles distributed by meat-packing houses as described in Sections A and C of Appendix 1 to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) in Sub-Nos. 136, and 179F, and pizza and pizza ingredients (except commodities in bulk) and material and supplies used in the manufacture and distribution of pizza and pizza ingredients (except commodities in bulk) in Sub-Nos. 148 and 171F, to "food and related products". In addition, in Sub-No. 136, broaden Great Bend, KS, to county-wide authority in Barton County, KS, and expand its one-way authority to radial authority. In Sub-Nos. 148F and 171F, broaden Salina, KS, to county-wide authority in Saline County, KS. In Sub-No. 179F, remove the facilities limitation and broaden Holcomb, KS, to countywide authority in Finney County, KS, and exand its one-way authority to radial authority.

MC 53965 (Sub-185)X, filed February 5, 1981. Applicant: GRAVES TRUCK LINE, INC., P.O. Box 1387, Salina, KS 67401. Representative: Bruce A. Bullock, ANR Freight System, Inc., One Woodward Avenue, Detroit, MI 48226. Applicant holds regular-route general commodity authority in its Sub-Nos. 96, 100, 113, 133, 150F, 160F, 161F, 164F, 167F, and 178F certificates. It seeks to (1) remove all exceptions in its general commodities authority, "except classes A and B explosives," (2) remove territorial restrictions which specify some intermediate points or no intermediate point service to authorize service at all intermediate points on regular routes in TX, OK, KS, MO, and NE, and (3) remove a restriction which limits service to Cheyenne, WY for purpose of interline and interchange only in Sub-No. 178F.

MC 56213 (Sub-16)X, filed February 5, 1981. Applicant: RICHARD L. KINARD, INC., 1100 West Locust St., York, PA 17404. Representative: Jeremy Kahn Suite 733 Investment Bldg., 1511 K Street, NW., Washington, DC 20005. Applicant seeks to modify its lead and Sub-No. 12 certificates to (1) broaden its commodity description from (a) canned vegetables, fresh vegetables, eggs, fresh fruit, in containers, and canned mushrooms and canned mushroom products, to "food and related products"; fertilizer and feed, to "farm products", mica pigment, to "clay, concrete, glass or stone products", in the lead certificate, (b) canned mushrooms and canned mushroom products, to "food and related products", in Sub-No. 12. (2) substitute its city-wide authority with county-wide authority (a) Hanover, Codorus, Spring Grove, York, Muhlenberg Township,and Hokes, PA. with York and Berks Counties in PA; Hightstown and Atlantic City, NJ. with Mercer and Atlantic Counties in NJ; Inwood, WV with Berkeley County, WV; and East Walpole, MA, with Norfolk County, MA, in the lead certificate, (b) Muhlenberg Township, PA, with Berks County, PA, in Sub-No. 12, and (3) replace its one-way authority with radial authority in both certificates, authorize service between specified points in several northeastern States.

MC 58777 (Sub-5)X, filed February 10, 1981. Applicant: HAZARD EXPRESS, INC., Box 748, Hazard, KY 41701. Representative: Charles H. White, Jr., Steven A. Lauer, Suite 800, 1019 19th Street, N.W., Washington, D.C. 20036. Applicant seeks to remove restrictions from its Sub-4F certificate by (a) eliminating the restriction on traffic originating at, destined to, or interlined at Lexington, KY in part (3) of its certificate; (b) allowing it to serve all intermediate points between Lexington and Jenkins, KY in part (1) of its certificate; between Louisville and Lexington, KY in part (3) of its certificate; and Cincinnati, OH and Lexington, KY in part (4) of its certificate; and (c) eliminate "serving Lexington, KY for purpose of joinder only" in part (4) of its certificate.

MC 62110 (Sub-19)X, filed February 10, 1981. Applicant: BILLINGS TRUCKING CORPORATION, 509 Cherry St., North Wilkesboro, NC 28659. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Applicant seeks to remove restrictions from its Sub-8, 10, and 12 certificates which authorize the transportation of new furniture and general commodities (with certain exceptions) from and to specified points, to (1) change the commodity description to "furniture and fixtures" in all Sub Nos. and "general commodities (except classes A and B explosives)" in Sub-10, (2) authorize radial authority primarily between points in eastern and southern States where only one-way exists in each Sub-

No., and (3) replace authority to serve named cities with authority to serve the county: Wilkes County, NC, for North Wilkesboro, NC, and Surry County, NC for Elkin, NC in Sub-8 and 10; Caldwell County, NC, for Lenoir, NC, Mercer County, NJ, for Trenton, NJ, Alleghany County, MD, for Cumberland, MD, Washington County, MD, for Hagerstown, MD, Cumberland County, NY, for Bridgeton, NY, Berks County, PA, for Reading, PA, York County, PA, for York, PA, in Sub-10; and McDowell County, NC, for Marion, NC, in Sub-12.

MC 62181 (Sub-14)X, filed February 9, 1981. Applicant: JOHN HENNES TRUCKING COMPANY, P.O. Box 10-H, Milwaukee, WI 53207. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. Applicant seeks to remove restrictions for its Sub-13F certificate which authorizes the transportation of "size and weight" commodities, with certain exceptions, between points in 28 central and northeastern States and DC, restricted to the transportation of traffic originating at and destined to those named States, by (1) eliminating from its commodity description "except paper, paper products, tractor cabs, agricultural equipment, lawn garden and agricultural tractors, snowmobiles, aerospace craft, and aerospace craft parts", and (2) removing the "originating at and destined to" restriction.

MC 71593 (Sub-83)X, filed February 6, 1981. Applicant: FORWARDERS TRANSPORT, INC., 1608 East Second Street, Scotch Plains, NJ 07076. Representative: David A. Swenson (same as above). Applicant seeks to remove restrictions in its Sub-25F, 33F and 66F certificates to (1) remove all exceptions in its general commodity authority except "Classes A and B explosives", (2) broaden the territorial authority from named facilities at Chicago, IL and Los Angeles, CA, to Chicago, IL and Los Angeles County, CA and (3) by replacing one-way authority with radial authority between origins in (2) and points in the United States in Sub-66F, and (4) remove a restriction to traffic destined to named facilities in Sub-66F.

MC 71593 (Sub-84)X, filed February 6, 1981. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, NJ 07076. Applicant seeks to remove restrictions in its lead and Sub-6F, 7F, 20F, 23F, 24F, 26F, 53F, 56F, 62F, 64F, and 70F, which authorize radial movements between numerous State combinations, (1) by removing all exceptions it its general commodities authority "except Classes A and B explosives"; (2) by eliminating the restiction to traffic moving on the bills of lading of freight forwarders; and (3) by expanding its one-way authority to radial authority in Sub-53F, part 3, between Charlotte, NC, and Chicago, IL, and Memphis, TN.

MC 85718 (Sub-18)X, filed February 9, 1981. Applicant: SEWARD MOTOR FREIGHT, INC., P.O. Box 126, Seward, NE 68434. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Applicant seeks to remove restrictions in its Sub-7F certificate to (1) broaden its commodity description from sodium bicarbonate, sodium carbonate, and cleaning, scouring, and washing compounds (except soda ash and commodities in bulk), to "chemicals and related products," (2) expand its one-way authority to radial authority between Sweetwater County, WY, and points in 8 named States, and (3) eliminate the restriction prohibiting transportation of traffic originating at named facilities in Sweetwater County, WY.

MC 92688 (Sub-2)X, filed February 10, 1981. Applicant: CHARLES J. KOTWICA, d.b.a. ROME EXPRESS, 5953 Rome Taberg Road, Rome, NY 13440. Representative: Morton E. Kiel, Two World Trade Center, Suite 1832, New York, NY 10048. Applicant seeks to remove restrictions in MC 92688 certificate and MC 114912 Sub-4, 6, 12, 13, 15, 18, 19, 20, and 21, permits to (1) broaden the commodity description from (a) oil and grease to "petroleum, natural gas, and their products" in MC 92688, (b) from paper, paper products, pulpboard, cellulose film, parchment paper, sealing tape, pulpboard caps, materials and supplies to "pulp, paper, and related products" in MC 114912 Sub-4 and 20, (c) from plastic products to "rubber and plastic products" in Sub-4 permit, (d) from wax, lacquer, fertilizer materials, laundry supplies, pesticides, to "chemicals and related products" in Sub-4, 12, 18, 19, 21, (e) from aluminum foil caps, copper and brass wires, copper rods, aluminum rods, wire, and cable, metal silos, empty spools, reels, and containers, materials and supplies to "metal products" in Sub-4, 6, 13, 15, (f) building and metal partitions to "building materials" in Sub-4, 18, and 21, (g) from scrap and waste paper to "waste or scrap materials not identified by industry producing" in Sub-4, (h) from outdoor lighting equipment, electrical transmission and distribution equipment, laundry machinery to "machinery" in Sub-4, 18, 21, (i) from lumber, wood burial caskets, wood silos to "lumber and wood products" in Sub-4, 15, (j) from concrete silos to "clay, concrete, glass, or stone products" in Sub-15, (k) from potato, corn and flour products to "food and related products" in Sub-15 and (l) from advertising materials to "printed matter" in Sub-19, (2) eliminate other commodity restrictions such as "loose, in containers, in bulk, size and weight" in MC 92688 and MC 114912 Sub-4, 15, 20, 21, (3) delete the "with no compensation on return" restriction in MC 92688 and in MC 114912 Sub-12, (4) authorize radial for existing one-way authority between Philadelphia, PA and NY in MC 92688, and (5) allow service to between points in the U.S. under continuing contract(s) with a named shipper in all referenced permits.

MC 99755 (Sub-3)X, filed February 9, 1981. Applicant: M & L TRUCKING COMPANY, INC., 4909 Tidewater Avenue, Oakland, CA 94601. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Applicant seeks to remove restrictions in its Sub-2F certificate which authorizes, over irregular routes, the transportation of general commodities (except commodities in bulk, Class A explosives, household goods as defined by the Commission, and those of unusual value), between Oakland, CA, and, points in 17 named counties in CA, by eliminating a restriction limiting traffic moving on freight forwarder bills of lading, as defined by the Commission.

MC 105636 (Sub-40)X, filed February 4, 1981. Applicant: ARMELLINI EXPRESS LINES, INC., P.O. Box 2394, Stuart, FL 33494. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Applicant seeks to remove restrictions in its Sub-28 and 32 certificates to broaden the commodity descriptions from general commodities (with the usual exceptions and frozen foods) to "general commodities (except classes A and B explosives)," and to eliminate the restrictions limiting traffic to that which is moving on freight forwarders bills of lading. Applicant seeks to authorize county-wide authority: New Haven County, CN, for New Haven, CN, and Bergen and Hudson Counties, NJ, for Carlstadt and Jersey City, NJ, in Sub-28; Onondaga, Erie and Monroe Counties, NY, for Syracuse, Buffalo and Rochester, NY, Dauphin and Allegheny Counties, PA, for Harrisburg and Pittsburgh, PA, and Cuyahoga County, OH, for Cleveland, OH, in Sub-32; and Orange, St. Lucie, Palm Beach, Broward and Dade Counties, FL, for Orlando, Fort Pierce, West Palm Beach, Fort Lauderdale and Miami, FL, in both certificates. Applicant also seeks to authorize radial

authority in lieu of existing one-way service (a) between Philadelphia, PA, Boston, MA, New York, NY, points in New Haven County, CT, Bergen and Hudson Counties, NJ, in Sub-28; (b) between Cincinnati, OH, Detroit, MI, points in Onondaga, Erie and Monroe Counties, NY, Dauphin and Allegheny Counties, PA, and Cuyahoga County, OH, in Sub-32; on the one hand, and, on the other, Jacksonville and Tampa, FL, points in Orange, St. Lucie, Palm Beach, Broward and Dade Counties, FL, in both certificates.

MC 107818 (Sub-109)X, filed February 5, 1981. Applicant: GREENSTEIN TRUCKING COMPANY, 280 N.W. 12th Ave., Pompano Beach, FL 33061. Representative: Martin Sacks, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202. Applicant seeks to remove restrictions in its authorities by (1) replacing specified foodstuffs such as fruits and vegetables, dairy products, cheese products and meats, with "food and related products" in Sub-1, 25, 45, 52, 67, 75, 82, and 88; (2) replacing paper and paper products with "pulp, paper and related products" in Sub-104; (3) deleting all exceptions (except classes A and B explosives) from its general commodity authority in Sub-106; (4) removing originating at or destined to restrictions in Sub-52, 67 and 75; (5) replacing Evansville, and Washington, TN, in Sub-52 with Vanderburgh and Daviess Counties, IN; in Sub-67 South Edmeston and Walton, NY, with Otsego and Delaware Counties, NY, and Hagerstown, MD, with Washington County, MD; in Sub-75, Livonia, MI, with Wayne County, MI and in Sub-104, Menasha, and Kaukauna, WI, with Winnebago and Outagamie Counties, WI; and (6) replacing one-way with radial authority in Subs-1, 25, 45, 52, 67, 75, 82, 88, 104, and 106 between points primarily in 22 eastern and southern States.

MC 108649 (Sub-20)X, filed February 6, 1981. Applicant: STURM FREIGHTWAYS, INC., 8919 North University, Peoria, IL 61614. Representative: Leonard R. Kofkin, Esq., 39 South LaSalle St., Chicago, IL 60603. Applicant seeks to remove restrictions in its lead and Sub-5, 6, 7, 8, 9, 11, 14, 15, and 18 certificates to (1) broaden the commodity description by removing all exceptions in its general commodities authorities except classes A and B explosives in the lead certificate and Sub-5, 6, 7, 8, 9, 11, 14, and 18, (2) broaden the territorial description in the lead certificate to (a) remove the restriction against serving Council Bluffs, IA as an intermediate point between Omaha, NE, and Peoria, IL, to authorize service at all intermediate points, (b) allow service to all intermediate points on its regular-route between Burlington, IA, and Chicago, IL, (c) delete the restriction to delivery of butter; in Sub-5 to (a) allow service to all intermediate points on its regular-route between a point near Lucas, IA and Des Moines, IA, and, (b) remove the restriction against the transportation of traffic moving to, from, or through Omaha, NE, or Chicago, IL, or points within their respective commercial zones, as defined by the Commission; in Sub-9 to remove the restriction to the transportation of shipments moving between the facilities of L. R. Nelson Corporation, at Manning, IA, and Peoria, IL; in Sub-11 to (a) allow service at all intermediate points on its regular-route between Peoria, IL, and Minneapolis, MN, and (b) remove the restriction against the transportation of shipments moving to, from, or through Omaha, NE, Des Moines, IA, or Chicago, IL, or points in the Omaha, Des Moines, or Chicago commercial zones, as defined by the Commission; in Sub-15 to expand one-way authority to radial authority between Omaha, NE, and points in IL; and in Sub-18 to allow service at all intermediate points on its regular-route between Danville, IL, and Indianapolis, IN.

MC 110144 (Sub-21)X, filed February 5, 1981. Applicant: JACK C. ROBINSON, d.b.a. ROBINSON FREIGHT LINES, 3600 Papermill Road, Knoxville, TN 37912. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Applicant seeks to remove restrictions in a certificate MC 139144 which was acquired in MC-F-13197, which authorizes the transportation of general commodities (with usual exceptions) over regular routes to (1) remove all exceptions in its general commodity authority except classes A and B explosives, and (2) allow service at all intermediate points on regular-routes between: Whitley City, KY, and Atlanta, GA; Jct. U.S. Hwy. 27 and Interstate Highway 40, near Harriman, TN, and Tompkinsville, KY; and Chattanooga, TN, and Jct. TN Hwy. 53 and Interstate Hwy. 40.

MC 111545 (Sub-308)X, filed February 6, 1981. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road, S.E., Marietta, GA 30067. Representative: J. Michael May (same address as applicant). Applicant seeks to remove restrictions in its Sub-207, 244, 249, and 253 certificates to (1) broaden the commodity description from (a) radioactive waste materials to "hazardous materials" in Sub-207; (b) from nuclear filtration equipment, and parts, attachments and accessories therefor to "machinery"; in Sub-244, (c) from uranium hexafluoride to "hazardous materials" in Sub-249; (d) and from source, special nuclear, and by product materials, radioactive material, shipping containers, nuclear component parts, and equipment to "such commodities as are dealt in or used by the nuclear industry" (2) authorize radial service in lieu of existing one-way authority in Sub-207 and 244; (3) replace city-wide with county-wide authority: Franklin County for Hillard, OH, in Sub-244; Pike County for Sargent, OH, in Sub-249; (4) remove a disposal facilities limitation in Barnwell County, SC, in Sub-207, and (5) remove the exceptions of AK and HI on the nationwide portion of its radial grants in Sub-207, and 253.

MC 112016 (Sub-16)X, filed February 6, 1981. Applicant: BENMAR TRANSPORT & LEASING CORP., 405 Third Avenue, Brooklyn, NY 11215. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. Applicant seeks to remove restrictions in its Sub-6 permit which authorizes the transportation of such commodities as are dealt in or used by discount department stores and equipment materials, and supplies, used in the conduct of such business to (1) remove the exception of "foodstuffs and commodities in bulk", in the commodity description, and (2) broaden the territorial authority to between points in the United States under continuing contract(s) with named shipper.

MC 115840 (Sub-125)X, filed February 6, 1981. Applicant: COLONIAL FAST FREIGHT LINES, INC., P.O. Box 22168, Knoxville, TN 37922. Representative: Chester G. Groebel (same address as applicant). Applicant seeks to remove restrictions in its Sub-48, 100G, 103G, and 104G certificates to (1) broaden the commodity description to "metal products" from cast iron and brass valves and components and cast iron fire hydrants in Sub-48; from such valves, hydrants, fittings, components, parts and accessories (except in bulk), used in the operation, production, processing or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes in Sub-100G, paragraph 24; from aluminum ingots, bars, sows, and aluminum scrap (except in dump vehicles), as embraced in aluminum products in Sub-103G, paragraph 1; from aluminum articles, the transportation of which because of size or weight requires the use of special equipment in Sub-104G, paragraph 10; and (2) broaden Birmingham, AL to Jefferson County, AL

in Sub-48; and (3) broaden the territorial descriptions from one-way authority to radial authority between (a) Jefferson County, AL, and points in 9 named States, in Sub-48, (b) between points in 8 named States and a described portion of LA, and, points in 21 named States, described portions of IL and OH, in Sub-100G, paragraph 24, (c) points in and east of TX, OK, KS, NE, SD, and ND, and, points in NC and SC in Sub-104G, paragraph 12.

MC 116014 (Sub-92)X, filed February 9, 1981. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, KY 40391. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. Applicant seeks to remove restrictions in its Sub-58F certificate to broaden the commodity description from iron and steel articles to "metal products"; to broaden Dearborn, to Wayne County, MI, Oak Park to Oakland County, MI, Georgetown to Scott County, MI, Mount Sterling to Montgomery County, KY, Burns Harbor to Porter County, IN, Gary to Lake County, IN, and Birmingham to Jefferson County, AL; to eliminate the "originating at" and "destined to" restriction; and to expand its one-way authority to radial authority between several combinations of the above points and between Ohio, and NC, SC, WV, and portions of KY, and TN.

MC 117344 (Sub-290)X, filed February 10, 1981. Applicant: THE MAXWELL CO., 10300 Evendale Dr., Cincinnati, OH 45241. Representative: James R. Stiverson, 1396 West Fifth Ave., Columbus, OH 43215. Applicant seeks to remove restrictions in its Sub-75 certificate (a) by broadening the commodity description from Spent catalyst (other than Liquid), in bulk, to "commodities in bulk" and (b) by removing the following exceptions from its non-radial authority, between IL, IN, KS, KY, MI, MN, OH, PA, WI and a part of NY: (1) between Louisville, KY and Lima, OH, (2) from Chicago and Chicago Heights, IL to any point, and (3) from Cincinnati, OH, to any point.

MC 118202 (Sub-166)X, filed February 4, 1981. Applicant: SCHULTZ TRANSIT INC., 323 Bridge Street, P.O. Box 406, Winona, MN 55987. Representative: Robert S. Lee, 1600 TCF Tower, Minneapolis, MN 55402. Applicant seeks to remove restrictions in its Sub-74 certificate to (1) broaden the commodity description from such commodities as are dealt in by electrical and plumbing wholesalers (except commodities in bulk, iron and steel articles, paper products, insulation, new furniture, carpet, and other named commodities), to "building materials, appliances and fixtures, clay, concrete, glass or stone products, and metal products," (2) remove the restrictions prohibiting the transportation on specified commodities orginating at (a) Fairfield, IA, McPherson, KS, Waco, TX, and Columbia, MO, and (b) Sharon or Wheatland, PA, and destined to points in MN and WI, and, (3) authorize two-way authority in lieu of existing one-way service between points in MN, SD, and WI, and, points in the US (with exceptions).

MC 118288 (Sub-52)X, filed February 9, 1981. Applicant: FROST TRUCK LINES, INC., 928 Broadwater Ave., Suite 208, Billings, MT 59103. Representative: Ronald D. Browning, 1321 SE. Water Ave., Portland, OR 97214. Applicant seeks to remove restrictions from its Sub-48 certificate to broaden its commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives). Applicant also seeks to remove the restriction limiting transportation to traffic moving on the bills of freight forwarders radially between CA and UT, CO, and MT.

MC 119383 (Sub-9)X, filed February 10, 1981. Applicant: PORTLAND MOTOR TRANSPORT, P.O. Box 11135, Portland, OR 97211. Representative: Lawrence V. Smart, Jr., 419 NW. 23rd Avenue, Portland, OR 97210. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity from (a) petroleum products as described in Appendix XIII of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 to "petroleum products, natural gas and their products", and (b) rosin size to "chemicals and related products," (2) eliminate the "in bulk, in tank vehicles" restrictions and, (3) change its one-way authority to radial authority in (a) above between Portland, OR and Lewis, Cowlitz, Clark, Skamania, and Klickitat Counties, WA, and in (b) above between Portland, OR, and points in WA west of the Cascade Range.

MC 120646 (Sub-30)X, filed February 3, 1981. Applicant: BRADLEY FREIGHT LINES, INC., P.O. Box 5875, Asheville, NC 28803. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004. Applicant seeks to remove restrictions from its irregular route authority in Sub-3, 5, 15, 17G, 20, and 25F certificates to (1) broaden commodity descriptions (a) from builder's supplies (brick, stone, sand and lumber), to "building materials", in Sub-3, sheet 3, (b) from furniture, furniture stock and parts, new furniture, commodities used in the manufacture of new furniture (except in bulk), new furniture and furnishings (except commodities in bulk), to "furniture and fixtures", in Sub-5, 17G, 20, and 25F, and (c) from textile products to "textile mill products", in Sub-5, (2) replace its specified plantsites and cities with county-wide authority (a) a named plantsite at Swannanoa, NC, with Buncombe County, NC, and a named plantsite at Westminster, SC, with Oconee County, SC, in Sub-5, (b) Berlin, NH, with Coos County, NH; Elizabeth, LA, with Allen County, LA; Pickens and Moss Point, MS, with Holmes and Jackson Counties, MS; Camden, AR, with Ouachita County, AR; and a named plantsite at Asheville, NC, with Buncombe County, NC, in Sub-15, (c) a named plantsite at Arcadia, LA, with Bienville County, LA, in Sub-19, (d) Drexel, Morganton, and Hildebran, NC, with Burke County, NC; Marion, NC, with McDowell County, NC; Shelby, NC, with Cleveland County, NC; Mocksville, NC, with Davie County, NC; High Point, NC, with Guilford County, NC; Black Mountain, NC; with Buncombe County, NC; Whittier, NC with Jackson County, NC; for a named plantsite at each above-named city, in Sub-20, and (e) Homer, LA with Claiborne County, LA, in Sub-25F, (3) expand its one-way authority with radial authority (a) between 3 named counties in NC, and points in the United States; between McMinn and Bradley Counties, TN, and points in 28 named States; between NC and VA, except points in Lee and Wise Counties to Ferndale Station, KY; between TN (with exceptions) and Ferndale Station, KY, in Sub-5, (b) between named counties in NH, LA, MS, and AR, (respectively), and points in Buncombe County, NC, in Sub-15, (c) between NC and points in 8 named States, in Sub-17G, (d) between Bienville County, LA, and points in the United States, in Sub-19, and (e) between IL, IN, KY, MI, MO, NY, OH, PA, VA, WV, and WI, and points in Burke and McDowell Counties, NC, Hildebran, NC, Cleveland, Davie, Guilford, and Buncombe Counties, NC, and Whittier, NC, in Sub-20, (4) eliminate the restrictions (a) prohibiting the transportation of shipments originating at points in 3 named counties in NC, in Sub-5, and (b) prohibiting transportation of lumber (except veneer), in Sub-20.

MC 120924 (Sub-11)X, filed February 9, 1981. Applicant: B & W CARTAGE CO., INC., 2923 West 79th Street, Chicago, IL 60652. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-No. 4F certificate to (1) broaden the commodity description from general commodities

(with the usual exceptions) to "general commodities (except class A and B explosives)", and (2) remove the restriction limiting transportation to traffic having an immediately prior or subsequent movement by rail.

MC 121254 (Sub-3)X, filed February 9, 1981. Applicant: O'LEARY TRANSPORTATION CO., INC., 324 Grove St., Worcester, MA 01605. Representative: Steven L. Weiman, 4 Professional Dr., Suite 145, Gaithersburg, MD 20760. Applicant seeks to remove restrictions from its Sub-No. 3 certificate which authorizes the transportation of dry rubber and plastic pellets and granules, in bulk, (except in dump vehicles), between points in MA, and points in 12 Northeastern States, restricted against the transportation of shipments from specified points in MD, RI and NJ, by (1) changing its commodity description to "commodities in bulk"; (2) removing the (except in dump vehicles) restriction; and (3) eliminating the restriction against originating shipments at Perryville, MD, Pawtucket, RI, Bridgewater and Pedricktown, NJ.

MC 123922 (Sub-22)X, filed February 5, 1981. Applicant: AMTRUK TRANSPORT, INC., P.O. Box 4327, Bergen Station, Jersey City, NJ 07304. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. Applicant seeks to remove restrictions in its Sub-No. 2 certificate to (1) broaden its commodity description from (a) alum, sodium aluminate, and rosin sizing, in bulk, and numerous specified chemicals to "chemicals and related products", and (b) processed clay, in bulk, in tank or hopper-type vehicles, to "clay, concrete, glass or stone products"; (2) expand its one-way authority to radial authority between specified points in northeastern States and to replace specified plantsites and cities with county-wide authority (a) a named plantsite at Adams, MA, with Berkshire County, MA; Solvay, NY, with Onondaga County, NY; a named plantsite at NJ, with Salem County, NJ; Woodbridge, NJ, with Middlesex County, NJ; Nashau, NH, with Hillsborough County NH; a named plantsite at Paulsboro, NJ, with Gloucester County, NJ; Johnsonburg, PA, with Elk County, PA; and remove the plantsite of Church & Dwight Co., Inc. at Syracuse, NY, (3) eliminate the restrictions (a) prohibiting transportation of traffic originating at named plantsites and destined to points in named States (b) prohibiting transportation of shipments destined to points in Canada moving via ports of entry on the United States-Canada Boundary line at or near Buffalo and Niagara Falls, NY.

MC 124213 (Sub-12)X, filed February 5, 1981. Applicant: SWIFTLINES, INC., 7878 "I" Street, Omaha, NE 68127. Representative: Donald L. Stern, Suite 610 7171 Mercy Road, Omaha, NE 68106. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2, 3, 6, 8, 9, 10, and 11 certificates to (1) eliminate all exceptions in its general commodity authority except "classes A and B explosives" in the lead, (2) broaden the commodity descriptions to "food and related products" from meats, meat products, and meat byproducts, and articles distributed by meat packing houses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides, and commodities in bulk), in Sub-Nos. 2, 6, 8, 9, 10, and 11, and, frozen meats in Sub-No. 3, (3) replace specified origin cities authority with county-wide authority: Nobles County, MN, for Worthington, MN, in Sub-Nos. 2 and 3; Blue Earth County, MN, for Markato, MN in Sub-No. 3; Clay and O'Brien Counties, IA, for Spencer and Hartley, IL, in Sub-No. 6; Madison County, NE, for Madison, NE in Sub-No. 8; Cherokee County, IA, for Cherokee, IA, in Sub-Nos. 9 and 10; Buena Vista County, IA, for Storm Lake, IA, in Sub-No. 10; and Emmet County, IA, for Estherville, IA, in Sub-No. 11, (4) expand its territorial authority from one-way authority to radial authority in all sub-numbers to authorize service between specified points in midwestern States, (5) eliminate the restriction limiting service to the transportation of traffic originating at and destined to indicated origins and destinations in Sub-Nos. 2, 3, 8, 10, and 11, and (6) remove the "in tank vehicles" restriction in Sub-No. 2.

MC 124621 (Sub-5)X, filed February 2, 1981. Applicant: CLEMENT RISBERG, d.b.a. RISBERG TRUCK SERVICE, 2339 SE Grand Ave., Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210. Applicant seeks to remove restrictions in its Sub-No. 4 permit to (1) remove restrictions against articles of unusual value, household goods, commodities in bulk and those requiring special equipment and (2) broaden the territorial description to between points in the United States under contract with a named shipper.

MC 133689 (Sub-354)X, filed February 5, 1981. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Applicant seeks to remove restrictions from its Sub-No. 264F certificate to (1) broaden the commodity description from parts and accessories for motor vehicles, and, materials, equipment, and supplies used in the manufacture and service of these commodities (except commodities in bulk) to "transportation equipment," (2) remove plantsite restrictions and replace with county-wide or city wide authority: Atlanta, GA; Jefferson County, KY, for Louisville, KY; Suffolk and Hampden Counties, MA, for Boston and Springfield, MA; Washtenaw County, MI, for Milan, Rawsonville, and Saline, MI; Kansas City and St. Louis, MO; Bergen, Middlesex, Camden and Union Counties, NJ, for Mahwah, Teterboro, Metuchen, Pennsauken, and Roselle, NJ; Eire and Onondaga Counties, NY, for Buffalo and Syracuse, NY; Mecklenburg County, NC, for Charlotte, NC; Shelby and Davidson Counties, TN, for Memphis and Nashville, TN; Hamilton, Cuyahoga, Richland, Lorain, and Allen Counties, OH, for Cincinnati, Cleveland, Manifield, Lorain, and Lima, OH; and Chicago, IL.

MC 138438 (Sub-104)X, filed February 2, 1981. Applicant: D. M. BOWMAN, INC., Route #2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. Applicant seeks to remove restrictions from its Sub-No. 44F certificate to (1) broaden the commodity description from gasoline, gasohol, distillates and residual fuel oils, and petroleum and petroleum products to "petroleum, natural gas and their products," (2) broaden its city-wide authority to county-wide authority: Fairfax and Prince William Counties, VA for Fairfax, Newington, and Manassas, VA, and (3) authorize radial authority in lieu of existing one-way authority (a) between Baltimore, MD, and MD, VA, and WV (except 5 WV cities and Winchester, VA); (b) between Fairfax County, VA and points in MD, VA, and WV (except Keyser, Charles Town, and Romney, WV), and (c) between Prince William County, VA and points in MD, VA, and WV, (4) broaden the territory to Berkeley County, VA from all points in Berkeley County east of I–81 except the Veterans Administrative Center and points in Berkeley County west of I–81 in parts 2 (a) and (b) of the certificate.

MC 138627 (Sub-111)X, filed February 5, 1981. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 201, 9202 West Dodge Rd., Omaha, NE 68114. Applicant seeks to remove restrictions

in its Sub-Nos. 16 and 49 certificates to (1) broaden its commodity description from grain storage equipment, and grain handling equipment, parts and accessories, metal buildings, materials, equipment and supplies, to "machinery and metal products" in Sub-No. 49; (2) expand its one way authority to radial authority between named points in several southern and midwestern States, (3) to replace specified plantsites and cities with county-wide authority: a named plantsite at or near Pine Bluff, AR, with Jefferson County, AR; a named plantsite at Sheridan and Pine Bluff, AR with Grant County, AR; and a named facility at West Memphis, AR, with Crittenden County, AR, in Sub-No. 16, and Grand Island, NE, with Hall County, NE; York, NE, with York County, NE; Elm Creek, NE, with Buffalo County, NE; Bluffton, IN, with Wells County, IN; Crawfordsville, IN, with Montgomery County, IN; Webster City, IA, with Hamilton County, IA; Greenville, MS, with Washington County, MS; Middletown, PA, with Dauphin and Westmoreland Counties, PA; Saginaw, MI, with Saginaw County, MI; and Oklahoma City, OK, with Oklahoma County, OK, in Sub-No. 49, and (4) eliminate the restrictions (a) against service to AK and HI; (b) prohibiting transportation of shipments originating at or destined to a named facility, and (c) against the transportation of commodities in bulk, in tank vehicles, in Sub-No. 49.

MC 139084 (Sub-12)X, filed February 2, 1981. Applicant: TOTRAN TRANSPORT LTD., P.O. Box 4830, South Edmonton, Alberta T6E4T5. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Applicant seeks to remove restrictions in its Sub-Nos. 6, 7, 9 and 11 certificates to broaden the commodity descriptions (a) in Sub-No. 6 from self-propelled articles (except automobiles, trucks and buses) to "self propelled articles", from construction, industrial and material handling machinery and equipment and parts and attachments for such commodities to "machinery", machinery, equipment, materials and supplies, used in the discovery of natural gas etc. to "Mercer Commodities"; (b) in Sub-No. 7 from iron and steel articles, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 276 (except Mercer Commodities and earth drilling commodities) to "iron and steel articles"; (c) in Sub-9 from road construction machinery and equipment, constructor's equipment, tractors, etc. to "machinery", from all terrain vehicles, amphibious vehicles, off highway vehicles, etc. (except boats, snowmobiles, and motorcycles), and parts and accessories for these commodities to "transportation equipment"; (d) in Sub-11, from fertilizer to "chemicals and allied products". Applicant also seeks to (1) eliminate the facilities limitations in all certificates and the originating at and destined to restriction, and (2) authorize county-wide authority: Madison County, NE, for Norfolk, NE, in Sub-No. 7; and, in Sub-No. 9, from Springfield, IL to Sangamon County, IL, from Evansville, IN to Vanderburgh County, IN, from Terre Haute, IN to Vigo County, IN, from Beltendorf, IA to Scott County, IA, from Burlington, IA, to Des Moines County, IA, from Cedar Rapids, IA, to Linn County, IA, from Topeka, KS To Shawnee County, KS, from Wichita, KS to Sedgwick County, KS, from Findlay, Hudsin, and St. Clairsville, OH, to Hancock County, OH, Summitt, and Belmont Counties, OH, from Pampa, TX to Gray County, TX, from Racine, WI to Racine County, WI, from Schofield and Wausau, WI to Marathon County, WI, and (4) replace its one-way authority with radial authority in Sub-Nos. 7, 9, and 11.

MC 139666 (Sub-4)X, filed February 10, 1981. Applicant: AICRAG CORPORATION, 12312 N.E. Whitaker Way, Portland, OR 97230. Representative: Philip G. Skofstad, 1525 N.E. Weidler, Portland, OR 97232. Applicant seeks to remove restrictions in its Sub-No. 2 certificate to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except Classes A & B explosives)", (2) delete the restriction limiting transportation to traffic having an immediately prior or subsequent movement by air, and (3) replace airport limitations with county-wide authority: Multnomah County, OR, for Portland International Airport, OR, and Pierce County, WA, for Seattle-Tacoma International Airport, WA.

MC 142361 (Sub-3)X, filed February 9, 1981. Applicant: RISBERG TRUCK SERVICE, INC., 2339 S.E. Grand Avenue, Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. Applicant seeks to remove restrictions from its Sub-No. 2 permit to (1) broaden its commodity description from general commodities (with exceptions) to "general commodities (except Classes A and B explosives)"; and (2) broaden its territorial description to between points in the U.S. under a continuing contract(s) with a named shipper.

MC 143059 (Sub-157)X, filed February 6, 1981. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Applicant seeks to remove restrictions in its Sub-Nos. 48F, 76F, 78F, 115F and 118F certificates to (1) broaden its commodity description to "building materials" from building materials, and accessories and supplies used in the installation of building materials, (except commodities in bulk) in Sub-Nos. 48F and 118F, from building materials (except commodities in bulk) in Sub-No. 76F, from composition board and sheets in Sub-No. 78F and from building materials (except in bulk) and insulation board in Sub-No. 115F, (2) authorize radial authority in lieu of one-way authority, (3) eliminate restrictions against service in AK and HI in Sub-No. 115F, (4) eliminate restrictions to traffic originating at named points in Sub-Nos. 76F and 118F, (5) eliminate the facilities limitations and (6) authorize county-wide authority between Nelson County, KY in place of Bardstown, KY and points in 28 states in Sub-No. 48F, Lafayette County, MS in place of Oxford, MS and points in IL, IN, KY, MI, OH, TN, and WI and between Halifax County in place of South Boston, VA and points in 18 states in Sub-No. 78F, Lake County, IL in place of Waukegan, IL and Will County, IL in place of Rockdale, IL and points in the U.S. in Sub-No. 115F, and Nelson County, KY in place of Bardstown, KY and points in 21 states in Sub-No. 118F.

MC 143059 (Sub-158)X, filed February 6, 1981. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Applicant seeks to remove restrictions in its Sub-Nos. 13F and 35F certificates to (1) broaden the commodity description from (a) water and sewer line gaskets, materials and supplies, to "clay, concrete, glass or stone products" in Sub-No. 13; (b) from plastic and rubber articles, materials and supplies to "rubber and plastic products and materials and supplies" in Sub-No. 35, (2) eliminate plantsite restrictions and replace with county-wide authority: Geauga County for Middlefield, OH, in Sub-No. 13 and Dallas County, TX, for Irving, TX, in Sub-No. 35, (3) delete an in bulk, in tank vehicle restriction in both Sub-Nos., (4) authorize radial service in lieu of existing one-way authority between Geauga County, OH, and points in the U.S. in Sub-No. 13 and

between Dallas County, TX, and points in the U.S. in Sub-No. 35.

MC 143059 (Sub-162)X, filed February 6, 1981. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40232. Applicant seeks to improve restrictions in its Sub-37F and 62F certificates to (1) broaden the commodity description from (a) iron and steel articles, zinc articles, and lead articles, springs, materials, equipment, and supplies used in construction, (except in bulk), and materials, equipment, and supplies used in the manufacture and distribution of the named commodities to "metal products, machinery, and construction materials" in Sub-37F; (b) air cleaners, air coolers, and air pollution control equipment, and parts and accessories therefore and materials, equipment, and supplies to "metal products and machinery," in Sub-62F, (2) remove plantsite restrictions and specified origin cities authority and replace with Commercial Zone or county-wide authority: Cook and Will Counties, IL, for Blue Island and Joliet, IL; Hamilton, Elkhart, and Howard Counties, IN, for Cicero, Elkhart and Kokomo, IN; Appanoose County, IA, for Centerville, IA; Kent and Ingham Counties, MI, for Grand Rapids and Lansing, MI; Hinds County, MS, for Jackson, MS; and Franklin and Lucas Counties, OH, for Columbus and Toledo, OH in Sub-37F; Louisville, KY; and Haywood and Carter Counties, Brownville and Elizabethton, TN in Sub-62F. Applicant also seeks in (b) to remove the restriction against the transportation of shipments to AK and HI, (2) commodities in bulk restrictions, (3) broaden the territorial descriptions from one-way to radial authority between named cities or counties and points in the United States, and to remove the restriction limiting transportation to traffic originating at or destined to named facilities.

MC 143098 (Sub-2)X, filed February 9, 1981. Applicant: LAUGHLIN TRUCKING, INC., Route 1, Box 95, Carlton, OR 97111. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Applicant seeks to remove restrictions from its lead and Sub-1 certificates to broaden its commodity description from dry feed and dry feed ingredients, in bulk, in hopper type vehicles, to "food and related products," in the lead certificate, and from cottonseed, meal, cottonseed crumbles, and cottonseed pellets to "food and related products," in Sub-1. Applicant also seeks to change its existing one-way authority to radial authority between 5 Counties in CA to points in OR and WA, in Sub-1.

MC 143127 (Sub-77)X, filed February 6, 1981. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Linda A. Calvo (same address as applicant). Applicant seeks to remove restrictions in its Sub-73F certificate by broadening the commodity description from medical supplies and equipment to chemicals or allied products and instruments, photographic goods, optical goods, watches or clocks.

MC 144026 (Sub-8)X, filed February 6, 1981. Applicant: WILLIAMS CARTAGE COMPANY, INC., P.O. Box 897, Hartsville, SC 29550. Representative: Robert L. McGeorge, 1000 Potomac St., NW., Fifth Floor, Washington, DC 20007. Applicant seeks removal of restrictions in its Sub-5F permit to (1) broaden the commodity descriptions to (a) "pulp, paper and related products" from paper and paper products, (b) "waste or scrap materials not identified by industry producing" from waste paper, (c) "lumber and wood products" from lumber products, and (2) broaden the territorial description to authorize service between points in the United States, under continuing contract(s) with a named shipper.

MC 144524 (Sub-7)X, filed February 9, 1981. Applicant: GK TRUCKING CORP., 500 West Putnam Avenue, Greenwich, CT 06830. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. Applicant seeks to remove restrictions in its lead and Sub-2F, 3F, 4F, and 5F permits to (1) remove the except "commodities in bulk" restriction in the lead and Sub-3F, 4F, and 5F, (2) broaden the commodity description from telephone and communications equipment to "such commodities as are dealt in by a manufacturer and distributor of telephone and communications equipment," in Sub-5F, (3) eliminate the "size or weight" restriction in Sub-5F, and (4) expand the territorial descriptions to between points in the United States under continuing contract(s) with named shippers.

MC 144542 (Sub-1)X, filed February 9, 1981. Applicant: CAR TRANSPORTERS CORPORATION, Route 1, Box 220 VW, Five Oaks Industrial Park, Hillsboro, OR 97123. Representative: John R. Bagileo, 918 16th Street, NW., Washington, DC 20006. The applicant seeks to remove restrictions in its lead permit to (1) expand the territorial description to between points in the United States under contract(s) with named shippers, (2) broaden the commodity description from "automobiles" to "transportation equipment"; and (3) eliminate the restriction to "in secondary movements, in truckaway service".

MC 144897 (Sub-9)X, filed February 10, 1981. Applicant: SUN FREIGHTWAYS, INC., P.O. Box 2898, Lubbock, TX 79408. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Applicant seeks to remove restrictions from its Sub-Nos. 1F, 4F, and 5F certificates to (1) broaden its commodity descriptions from general commodities (with the usual exceptions), to "general commodities (except classes A and B explosives)," in each certificate, (2) eliminate the restriction prohibiting transportation of traffic moving between any two points in TX, by enterline or otherwise, in Sub-No. 1F, and (3) remove the plantsite restriction of a named facility in Sub-No. 5F.

MC 146148 (Sub-16)X, filed February 10, 1981. Applicant: B–RIGHT TRUCKING CO., 492 Old St. Rt. 7, Pottery Addition, Steubenville, OH 43952. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Applicant seeks to remove restrictions in its Sub-Nos. 1F, 3F, 8F, and 12F certificates to broaden the commodity descriptions from iron and steel articles to "metal products" in Sub-Nos. 1F, 3F, and 8F; and from roofing materials to "building materials" in Sub-No. 12F. In addition, it seeks to eliminate the facilities restrictions in 1F, 3F, 8F, and 12F, and authorize countywide authority (1) to Hancock County, WV, in place of New Cumberland, WV in Sub-No. 1F; (2) Washington and Westmoreland Counties, PA, in place of Allenport and Monessen, PA, and Brooke, Marshall and Ohio Counties, WV, in place of Beechbottom, Benwood, Follansbee, and Wheeling, WV in Sub-No. 3F; (3) Clark County, OH, in place of Springfield, OH in Sub-No. 8F; (4) Mahoning, Lake and Licking Counties, OH, in place of Youngstown, Wickliffe and Heath, OH, and Brooke County, WV, in place of Follansbee, WV in Sub-No. 12F. It also seeks to expand its one-way authority to radial authority in Sub-No. 3F, between the counties in (2) above and IL, IN, MI, OH, NY and WV; in Sub-No. 8F, between Clark County, OH and GA, TN, KY, IN, and IL, and in Sub-No. 12F between the counties in (4) above and IN, KY, MI, NY, PA, WV, VA, ME, DE, MD, NJ, CT, RI, MA, VT, NH and DC.

MC 146265 (Sub-8)X, filed February 9, 1981. Applicant: JAMES L. ENGLAND, d.b.a. JIM ENGLAND TRUCKING, P.O. Box 5483, Huntsville, AL 35805. Representative: Robert E. Born, Suite 508, 1447 Peachtree Street, NE., Atlanta, GA 30309. Applicant seeks to remove

restrictions in its Sub-Nos. 3F, 4F, and 6F, permits to (1) broaden the commodity description to "metal products" from steel acetylene cylinders and parts for cylinders in Sub-No. 3F; "lumber and wood products" from wooden dowels and wooden blanks in Sub-No. 4F; "rubber and plastic products" from plastic film wrapping in Sub-No. 6F; and, (2) broaden the territorial description to between all points in the United States under continuing contract(s) with named shippers.

MC 146676 (Sub-4)X, filed February 9, 1981. Applicant: BURKS TRUCKING, INC., P.O. Box 37, Old Fort, OH 44861. Representative: E. H. Van Deusen, P.O. Box 97, Dublin, OH 43017. Applicant seeks to remove restrictions in its Sub-No. 2F certificate to (1) broaden the commodity description from (a) stereo speakers to "machinery", (b) cabinets to "furniture and fixtures", (c) wood fuel to "lumber and wood products", (d) insulation board to "pulp, paper, and related products", (2) eliminate an "in bulk" restriction, (3) replace county-wide for city-wide authority: Seneca County for Tiffin, OH and (4) eliminate the restriction against service to AK and HI.

MC 147227 (Sub-9)X, filed February 9, 1981. Applicant: ATLANTIC MARKETING CARRIERS, INC., P.O. Box 493, 39400 Clarkson Drive, Kingsburg, CA 93631. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. Applicant seeks to remove restrictions from its Subs 5F, 7F and 8F by (a) broadening the commodity descriptions in Sub 5F from empty glass bottles to "clay, concrete, glass or stone products"; and in its Subs 7F and 8F from general commodities (with exceptions) to "general commodities (except Classes A and B explosives)"; (b) replacing city-wide with county-wide and one-way authority with radial (1) in Sub 5F between points in Kent County, RI (Coventry, RI) and points in MI, IL, MO, KY and IN; between points in Will County, IL (Joliet, IL) and points in CA, NM, and AZ, and between Parkersburg, WV and points in CA, NM, AZ, IL, MO and IA; (2) in Sub 7F between Clinton and Essex Counties, NY, and points in IN, MI, MO, IL, WI, MN, CA, TX, FL, GA, KS, and CO, and between points in MA and VT, and points in TX, FL, GA, KS and CO, and (3) in Sub 8F between points in SD, WY, UT, WA, OR, NV, ID, NE, IA, AZ, NM, OK, NC, and SC, (c) removing the restriction in Sub 5F limiting the transportation of traffic to that originating at the named origin, and (d) remove the restriction to traffic moving in bills of lading of shipper's associations in Sub 8F.

MC 147304 (Sub-3)X, filed February 9, 1981. Applicant: MONTE L. THOEN and DORIS R. THOEN, d.b.a. THOEN TRUCK RENTALS, 13124 N.W. Sue Street, Portland, OR 97229. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description from malt beverages to "food and related products", (2) eliminate the plantsite restriction of Blitz-Weinhard Brewing Company, and (3) change the one-way authority to radial authority between Portland, OR and CA, OR, WA, ID, MT, WY, NV, UT, CO, AZ, and NM.

MC 148208 (Sub-9)X, filed February 6, 1981. Applicant: FUR BREEDERS AGRICULTURAL COOPERATIVE, P.O. Box 295, Midvale, UT 84047. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Applicant seeks to remove restrictions in its Sub-Nos. 1F and 3F certificates. In Sub-No. 1F, broaden the commodity description from cheese and cheese products to "foodstuffs"; eliminate the facilities restriction limitation and broaden Hyde Park, UT to Cache County, UT, and expand one-way authority to radial authority between Cache County and points in CA, OR, WA, AZ, and CO. In Sub-No. 3F, broaden the commodity description from (1) motor vehicle parts and motor vehicle accessories, and (2) materials and supplies used in the manufacture, packaging, and distribution of the commodities in (1) above, to "transportation equipment", eliminate the facilities restriction limitation and broaden Clearfield, UT, to Davis County, UT, Greenville and Fostoria, OH, to Drake and Seneca Counties, OH, and Nevada, MO, to Vernon County, MO, and expand its one-way authority to radial authority between Davis County, UT and points in CA, OR, and WA.

[FR Doc. 81-6374 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions, Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539. 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 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant 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 its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant 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. 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 interest 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 invovling 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".

Volume No. OP2-013

Decided: February 11, 1981.

By the Commission, Review Board No. 1, members Carleton, Joyce, and Jones.

MC 1263 (Sub-39), filed January 19, 1981. Applicant: McCARTY TRUCK LINE, INC., 17th and Harris, Trenton, MO 64683. Representative: James M. McCarty (same as applicant). Over regular routes, Transporting *general commodities* (except classes A and B explosives), (1) between St. Joseph, MO and Kirksville, MO: (a) from St. Joseph over U.S. Hwy 36 to junction U.S. Hwy 63, then over U.S. 63 to Kirksville, and return over the same route: (b) from St. Joseph over U.S. Hwy 36 to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction MO Hwy 6, then over MO Hwy 6 to Kirksville, and return over the same route, serving all intermediate points, and serving points in Buchanan, Adair, Andrew, Caldwell, Clinton, Daviess, DeKalb, Grundy, Harrison, Linn, Livingston, Mercer, Platte, Putnam, Schuyler and Sullivan Counties, MO and Doniphan County, KS, as off-route points: (2) between St. Louis, MO and Kirksville, MO: from St. Louis over Interstate Hwy 70 to junction U.S. Hwy 63, then over U.S. Hwy 63 to Kirksville, and return over the same route, serving all intermediate points, and serving points in St. Louis, Adair, Andrew, Caldwell, Clinton, Daviess, DeKalb, Grundy, Harrison, Linn, Livingston, Mercer, Platte, Putnam, Schuyler and Sullivan Counties, MO and St. Clair and Madison Counties, IL as off-route points: (3) between Kansas City, MO and Kirksville, MO: (a) from Kansas City over Interstate Hwy 35 to junction U.S. Hwy 36, then over U.S. Hwy 36 to junction U.S. Hwy 63, then over U.S. Hwy 63 to Kirksville, and return over the same route, and (b) from Kansas City over Interstate Hwy 35 to junction MO Hwy 6, then over MO Hwy 6 to Kirksville, and return over the same route, serving all intermediate points and serving points in Jackson, Clay, Platte, Cass, Adair, Andrew, Caldwell, Clinton, Daviess, DeKalb, Grundy, Harrison, Linn, Livingston, Mercer, Putnam, Schuyler and Sullivan Counties, MO, and Johnson, Wyandotte and Leavenworth Counties, KS, as off-route points.

MC 2392 (Sub-139), filed January 19, 1981. Applicant: WHEELER TRANSPORT SERVICE, INC., P.O. Box 14248, West Omaha Station, Omaha, NE 68124. Representative: Edward J. Kiley, 1730 M St. NW., Washington, DC 20036. Transporting *chemicals and related products* between points in Shelby County, TN, NE, and IA, on the one hand, and, on the other, points in the U.S.

MC 14702 (Sub-89), filed January 27, 1981. Applicant: OHIO FAST FREIGHT, INC., P.O. Box 808, Warren, OH 44482. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Marc Rich and Company, Inc., of Pittsburgh, PA.

MC 16872 (Sub-27), Filed January 23, 1981. Applicant: WILLIAM MIRRER d.b.a. MIRRER'S TRUCKING, 100 E. 25th St., Paterson, NJ 07514. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201-435-7140. Transporting *chemicals and related products*, between points in the U.S., restricted to traffic originating at or destined to the facilities of Sobin Chemical, Inc., of Boston, MA.

MC 47583 (Sub-136), Filed January 19, 1981. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. Transporting *clay, concrete, glass or stone products, rubber and plastic products, and lumber and wood products*, between points in the U.S., restricted to traffic originating at or destined to the facilities owned or used by Owens-Corning Fiberglass Corporation.

MC 65802 (Sub-72), Filed January 28, 1981. Applicant: LYNDEN TRANSPORT, INC., 5615 West Marginal Way, S.W., Seattle, WA 98106. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425-13th Street, N.W., Washington, DC 20004, (202) 737-1030. Transporting *chemicals and related products*, between points in Whatcom and Skagit Counties, WA, on the one hand, and, on the other, points in OR.

MC 87532 (Sub-8), Filed January 13, 1981. Applicant: CLAY PRODUCTS TRANSPORT, INC., P.O. Box 429, Dover, OH 44622. Representative: James M. Burtch, 100 E. Broad St., Columbia, OH 43215, (614) 228-1541. Transporting *clay, concrete, glass or stone products*, between points in Carroll, Mahoning, Stark, and Tuscarawas Counties, OH, 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 103993 (Sub-1073), filed January 30, 1981. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *machinery*, between points in the U.S.

MC 107012 (Sub-650), filed January 26, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 219-429-2110. Transporting *metal products*, between points in NY, on the one hand, and, on the other, points in the U.S.

MC 107012 (Sub-652), filed February 3, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 219-429-2110. Transporting *building materials*, between points in the U.S.

MC 108473 (Sub-54), filed January 16, 1981. Applicant: ST. JOHNSBURY TRUCKING CO., INC., 87 Jeffrey Avenue, Holliston, MA 01746. Representative: Harry J. Jordan, Esq., Suite 502, Solar Building, 1000 16th St., NW., Washington, DC 20036. Over regular routes, transporting *general commodities* (except classes A and B explosives, (1) between Wilmington, DE, and Portsmouth, VA, over U.S. Hwy 13; (2) between Baltimore, MD and South Hill, VA, over U.S. Hwy 1; (3) between Baltimore, MD and Washington, PA, over U.S. Hwy 40; (4) between Washington, DC and Danville, VA, over U.S. Hwy 29; (5) between Cumberland, MD, and Ridgeway, VA, over U.S. Hwy 220; (6) between Chambersburg, PA and Bristol, VA, over U.S. Hwy 11; (7) between Uniontown, PA and Williamson, WV, over U.S. Hwy 119; (8) between Richmond, VA and Martins Ferry, OH, over U.S. Hwy 250; (9) between Virginia Beach, VA and Huntington, WV, over U.S. Hwy 60, serving all intermediate points in part (1) through (9), and those points in DE, MD, VA, and WV, as offroute points in connection with carrier's otherwise authorized regular-route operations.

MC 118202 (Sub-163), filed January 21, 1981. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge St., Winona, MN 55987. Representative: Robert S. Lee, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. Transporting *food and related products*, (a) between points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI, and (b) between points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, KY, LA, ME, MD, MA, MS, NH, NJ, NM, NY, NC, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC.

MC 125813 (Sub-24), filed January 6, 1981. Applicant: CRESSLER TRUCKING, INC., 691 Orrstown Rd., Shippensburg, PA 17257. Representative: Edward G.

Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, DC 20004. Transporting *coal and coal products, ores and minerals, and machinery,* between points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, and WY, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and VA.

MC 134752–5, filed January 30, 1981. Applicant: HILL & WILLIAMS BROS., INC., 799–44th St., Marion, IA 52302. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting: *textile mill products and rubber and plastic products,* between points in IA, on the one hand, and, on the other, points in AL, GA, IL, IN, MS, NC, PA, SC and TN.

MC 135762 (Sub-16), filed January 26, 1981. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, 6004 Highway 271 South, Fort Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Transporting *metal products,* between points in the U.S. under continuing contract(s) with Bekaert Steel Wire Corporation, of Rome, GA.

MC 138432 (Sub-21), filed January 30, 1981. Applicant: GARLAND GEHRKE, 1800 N. Jefferson, Lincoln, IL 62656. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. Transporting *food and related products,* between points in the U.S.

MC 138633 (Sub-6), filed November 12, 1980. Applicant: STATEWIDE CARRIERS, INC., 1301 Prairie, Chicago Heights, IL 60411. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle St., Chicago, IL 60602. Transporting *waste paper,* between points in IL, IN, IA, MI and WI.

MC 142672 (Sub-162), filed January 30, 1981. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. Transporting *such commodities,* as are dealt in and used by breweries, between points in Jefferson County, CO, on the one hand, and, on the other, points in LA, MS, and TN.

MC 146782 (Sub-38), filed January 26, 1981. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Ave., South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville, Bank & Trust Bldg., Nashville, TN 37201. Transporting *metal products,* between points in Tuscaloosa County, AL, on the one hand, and, on the other, those points in U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 146782 (Sub-40), filed January 26, 1981. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, TN 37201. Representative: J.R. Raines (same address as applicant). Transporting *machinery,* between points in Rutherford County, TN, on the one hand, and, on the other, points in the U.S.

MC 146813 (Sub-8), filed January 27, 1981. Applicant: A. M. DELIVERY, INC., 21454 Cold Springs LN., Diamond Bar, CA 91765. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting (1) *petroleum, natural gas and their products,* (2) *food and related products,* (3) *pulp, paper and related products,* (4) *printed matter,* (5) *chemicals and related products,* (6) *rubber and plastic products,* (7) *clay, concrete, glass or stone products,* (8) *metal products,* and (9) *medical products goods, products,* between points in the U.S., under continuing contract(s) with T.T.S., Inc., of Walnut, CA.

MC 148543 (Sub-1), filed January 22, 1981. Applicant: K.T. TRANSPORT, INC., 2320 Coyle Drive, New Albany, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN. Transporting *rubber and plastic products,* between points in Cook County, IL, on the one hand, and, on the other, points in OH, IN, and KY.

MC 149403 (Sub-2), filed February 4, 1981. Applicant: SCOTT'S EXPRESS, INC., Box 728, Grand Forks, ND 58201. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. Transporting *general commodities* (except classes A and B explosives), between points in ND and those in MN on and west of U.S. Highway 71, on the one hand, and, on the other, points in the U.S.

MC 151533 (Sub-10), filed January 26, 1981. Applicant: BESTWAY FREIGHT LINES, LTD., 1749 Wilbur Cross Hwy., Berlin, CT 06037. Representative: Gerald A. Joseloff, P.O. Box 3258, Hartford, CT 06103. Transporting *machinery and metal products,* between points in Dutchess County, NY, on the one hand, and, on the other, points in the U.S.

MC 152362 (Sub-1), filed January 19, 1981. Applicant: SOUTHWEST EXPRESS COMPANY, INC., 1007 Cooper Sq. #276, Arlington, TX 76010. Representative: Mr. Timothy C. Hope (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between points in TX, NM, OK, CO, WY, AR, TN, LA, MS, AL, GA, NC, SC, FL, and VA, on the one hand, and, on the other, points in the U.S.

MC 153002 (Sub-1), filed February 4, 1981. Applicant: GETZINGER TRUCKING, INC., Morton Ave., Rosenhayn, NJ 08352. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. Transporting *food and related products* between points in James City County, VA, on the one hand, and, on the other, points in DE, Bucks, Delaware and Montgomery Counties, PA, and Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem Counties, NJ.

MC 153392 (Sub-1), filed January 23, 1981. Applicant: CENTRAL TRACTOR FARM & FAMILY CENTER, INC., 1515 East Euclid, Des Moines, IA 50316. Representative: William L Fairbank, 1980 Financial Center, Des Moines, IA 50309, 515–245–4300. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with (a) Mississippi Milk Producers Association, Inc., of Waterloo, IA, (b) Pomerantz Diversified Services, Inc., of Des Moines, IA, (c) P–K Manufacturing Corp., of Omaha, NE, (d) Atlanta Stove Works, Inc., of Atlanta, GA, (e) Ardan, Inc., of Des Moines, IA, (f) Pidgeon's Furniture & Appliance Stores, Inc., of Des Moines, IA, (g) Walsh Equipment Inc., of Des Moines, IA, and (h) Fi-Shock, Inc., of Knoxville, TN.

MC 153722 (Sub-1), filed January 27, 1981. Applicant: OVERLAND CARRIERS, INC., 8205 "F" St., Omaha, NE 68127. Representative: John D. Sykora, 13075 Sky Park Dr., Omaha, NE 68137. Transporting (1) *food and related products, and chemicals and related products,* between points in the U.S., under continuing contract(s) with (a) Pabst Brewing Company and its wholly-owned subsidiaries, (b) Industrial Products Division, Inc., (c) Blitz-Weinhard Brewing Company, and (d) Premier Malt Products, of Milwaukee, WI.

MC 153792, filed January 26, 1981. Applicant: TABISH BROTHERS DISTRIBUTORS, INC., 955 Beech St., Missoula, MT 59801. Representative: Bradley J. Luck, P.O. Box 7909, Missoula, MT 59807. Transporting *pulp, paper and related products,* between points in the U.S., under continuing contract(s) with Champion International Corporation, of Hamilton, OH.

Volume No. OP4–003

Decided: February 9, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 112547 (Sub-5F), filed November 12, 1980 previously noticed in the

Federal Register of December 16, 1980. Applicant: J. T. GERKEN TRUCKING, INC., P.O. Box 2468, Lima, OH 45802. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with the Standard Oil Company of Ohio, of Cleveland, OH, and its subsidiaries.

Note.—The purpose of this republication is to delete the exceptions of articles of unusual value and commodities in bulk reflected in the prior Federal Register notice.

MC 118696 (Sub-48F), filed January 5, 1981. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Rd., Hammond, IN 46324. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting (1) *furniture and fixtures*, (2) *pulp, paper and related products*, (3) *printed matter*,(4) *electrical appliances*, and (5) *rubber and plastic products*, between Atlanta, GA, Buffalo, NY, Boston, MA, Houston and Dallas, TX, St. Louis and Kansas City, MO, Minneapolis, MN, Jacksonville, FL, Milwaukee, WI, Detroit, MI, Des Moines, IA, and New Orleans, LA, points in IL, IN, OH, KY, and TN, those in NJ in and north of Mercer and Middlesex Counties, and those in PA on and east of U.S. Hwy 15, on the one hand, and, on the other, those points in the U.S. in and east of ND, SC, NE, KS, OK, and TX.

MC 152246 (Sub-1F), filed November 12, 1981. Applicant: SCHULD TRANS. INC., 774 Flanner Rd., Box 57, Mosinee, WI 54455. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting (1) *storage tanks, silos, and bins*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Mosinee, WI, Iowa Falls, IA, Van Wert, OH, and Milton, PA, on the one hand, and, on the other points in the U.S.

Volume No. OP4–004

Decided: February 9, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 117577 (Sub-5), Filed January 23, 1981. Applicant: A. C. WIDENHOUSE, INC., 400 Old Charlotte Rd., Concord, NC 28025. Representative: Robert E. Born, Suite 508, 1447 Peachtree St., NE., Atlanta, GA 30309. Transporting *petroleum, natural gas and their products*, between points in Brunswick and New Hanover Counties, NC, on the one hand, and, on the other, points in Granville, NC.

MC 138627 (Sub-107), Filed January 23, 1981. Applicant: SMITHWAY MOTOR EXPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114. Transporting (1) *metal products*, (2) *building materials* between points in Whiteside County, IL, on the one hand, and, on the other, points in the U.S.

MC 146807 (Sub-26), Filed January 21, 1981. Applicant: S-n-W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. Transporting (1) *metal products*, and (2) *machinery*, between points in Lackawanna County, PA, on the one hand, and, on the other, points in OH, NY, MD, GA, TX, CA, IL, MN, MI, VA, CT, and NJ.

MC 146817 (Sub-11), Filed January 26, 1981. Applicant: GEORGE CAVES, doing business as, CAVES TRUCKING, P.O. Box 28357, Lincoln, NE 68529. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506. Transporting *such commodities* as are dealt in and used by building materials and home improvement stores, between points in the U.S.

MC 148647 (Sub-13), Filed January 26, 1981. Applicant: HI-CUBE CONTRACT CARRIER CORP., 5501 West 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 No. LaSalle St., Chicago, IL 60601. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Perk Foods Company, Division of C.H.B. Foods, of Camp Hill, PA.

MC 148877 (Sub-2), filed January 27, 1981. Applicant: LEON'S TRUCKING CO., a corporation, 1511 Brooklyn Ave., Eugene, OR 97403. Representative: Frederick De Leon (same address as applicant). Transporting (1) *clay, concrete, glass or stone products*, (2) *metal products*, and (3) *rubber and plastic products*, between points in OR, WA, ID, CA, and UT.

MC 149497 (Sub-4), filed January 23, 1981. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Elaine M. Conway, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by manufacturers of power transformers, between points in the U.S., under continuing contract(s) with Magnetic Controls Company, of St. Peter, MN.

MC 152357 (Sub-1), filed January 26, 1981. Applicant: RONALD GENE, d.b.a. STINE TRUCKING, 801 S. Santa Fe, Visalia, CA 93277. Representative: Donald R. Hedrick, P.O. Box 88, Norwalk, CA 90650. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Early California Foods, of Los Angeles, CA.

Volume No. OP4–10

Decided: February 9, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 35676 (Sub-1F), filed January 6, 1981. Applicant: J. W. MESSERSCHMIDT and S. R. MESSERSCHMIDT, a partnership, d.b.a. ALLSTATE VAN AND STORAGE COMPANY, 115 27th Ave. NE., Minneapolis, MN. Representative: J. W. Messerschmidt (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between points in MN, WI, IL, IN, MI, IA, NE, ND, and SD.

MC61016 (Sub-60), filed February 2, 1981. Applicant: PETER PAN BUS LINES, INC., 1776 Main St., Springfield, MA 01103. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1115, Washington, DC 20036. Transporting *passengers and their baggage, in the same vehicle with passengers, in charter and special operations, between points in Hartford, New Haven and Fairfield Counties, CT, on the one hand, and, on the other, Atlantic City, NJ.*

MC 105656 (Sub-16), filed January 23, 1981. Applicant: PASQUALE TRUCKING CO., INC., P.O. Box 295, Logansport, IN 46947. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *meat, meat products, meat byproducts and articles distributed by meat-packing houses*, between points in Linn and Polk Counties, IA, Warren County, IL and Freeborn County, MN, on the one hand, and, on the other, points in CT, DE, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, and DC.

MC 147636 (Sub-14), filed January 28, 1981. Applicant: LARRY E. HICKOX, d.b.a. LARRY E. HICKOX TRUCKING, Box 95, Casey, IL 62420. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting (1) *chemicals and related products*, and (2) *petroleum, natural gas and their products*, between points in the U.S., under continuing contract(s) with Mooney Chemicals, Inc., of Cleveland, OH.

MC 149206 (Sub-7), filed January 19, 1981. Applicant: BREWTON EXPRESS, INC., P.O. Box 508, Winnfield, LA 71483. Representative: Brian E. Brewton, P.O. Box 508, Winnfield, LA 71483. Transporting *Mercer commodities*,

between points in LA, on the one hand, and, on the other, points in the U.S.

MC 150066 (Sub-1) (M1) (notice of filing of petition to add additional shippers), filed February 2, 1981. Petitioner: MULTI-STATES TRANSPORT, INC., 12800 S. Butler Dr., Chicago, IL 60633. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005. Petitioner holds motor contract carrier authority in permit MC 150066 (Sub-1), issued January 28, 1981, authorizing transportation, over irregular routes, of (1) iron and steel articles, refractories, and alloys, (2) scrap metal, and (3) materials and supplies used in the manufacture of the commodities in (1) and (2) above, between Alton, Chicago, Madison, and East St. Louis, IL, and Gary, IN, on the one hand, and, on the other, points in IL, IA, IN, KY, MI, MN, MO, MD, MS, NE, NJ, NC, OH, PA, TN, TX, WI, and WV, under continuing contract(s) with Century Steel Corporation, of Chicago Heights, IL, Hyman-Michaels Co., Division of Azcon, of Chicago, IL, Action Metals, Inc., and Steel Mill, Inc., both of Gary, IN. By the instant petition, petitioner seeks to add Stateline Steel Corporation, of Erie, MI; Kasle Steel Co., of Dearborn, MI; Inland Steel Company, of East Chicago, IN; Dooland Steel, Inc., of Moorestown, NJ; Refractory Handling, Inc., of Wyandotte, MI; Whittaker Corporation, Steel Strip Division, of Detroit, MI; Enamel Products and Plating Company, of Portage, IN; Globe Refractories, Inc., of Newell, WV; Cy's Trucking and Transfer, Inc., of Gary, IN; Joseph T. Ryerson & Sons, Inc., Unarco-Leavitt Division of Unarco Industries, Inc., and Pinkert Steel Co., all of Chicago, IL; U.S. Reduction Company and National Briquette Corp., both of East Chicago, IN; Churchill Steel, Ltd., of Chicago Heights, IL; Midwest Division of National Steel Corporation, of Portage, IN; Bethlehem Steel Company, of Chesterton, IN; Resco Products, Inc., of Norristown, PA; Martin Enterprises, Inc., of Great Neck, NY; Allied Tube and Conduit Corp., of Harvey, IL; and Swank Refractories Co., of Coraopolis Heights, PA, as additional contracting shippers.

MC 152096 (Sub-1), filed February 2, 1981. Applicant: TERRANCE E. CARLSON and KENNETH O. CARLSON, d.b.a. CARLSON BROS., P.O. Box 1401, Lewiston, ID 83501. Representative: Donald A. Ericson, 708 Old National Bank Bldg., Spokane, WA 88201. Transporting (1) *forest products*, (2) *lumber and wood products*, and (3) *hog fuel*, between points in the U.S., under continuing contract(s) with Potlatch Corporation, of Lewiston, ID.

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Decided: February 9, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 91306 (Sub-33), filed January 16, 1981. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Ave., NE., Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. Transporting *pulp, paper and related products*, between points in Burlington County, NJ, on the one hand, and, on the other, points in NC, SC, VA, and GA.

MC 133566 (Sub-176), filed January 21, 1981. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *pulp, paper and related products*, between points in Merrimack County, NH, on the one hand, and, on the other, points in the U.S.

MC 143776 (Sub-17), filed January 22, 1981. Applicant: C.D.B., INCORPORATED, 155 Spaulding Ave., S.E., Grand Rapids MI 49506. Representative: C. Michael Tubbs (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between the facilities of Superior Plastics, Inc. and its subsidiaries and affiliates, on the one hand, and, on the other, points in the U.S.

MC 146646 (Sub-121F), filed October 12, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting (1) *cleaning compound and detergents*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Pine Glo Products, Inc., at or near Raleigh, NC, on the one hand, and, on the other, points in the U.S.

MC 151456 (Sub-1), filed January 23, 1981. Applicant: HAROLD GENTRY, d.b.a. BUMPER TO BUMPER WRECKER SERVICE, P.O. Box 598, Pinson, AL 35126. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209. Transporting *transportation equipment*, between points in Jefferson County, AL, on the one hand, and, on the other, points in the U.S.

MC 151596 (Sub-3), filed January 22, 1981. Applicant: BOB WHITAKER & SON, INC., P.O. Box 65, Roswell, NM 88201. Representative: Bob Whitaker, (same address as applicant).

Transporting *meats, meat products, meat byproducts, and articles distributed by meat packing-houses*, between points in Curry County, NM, and Lipscomb County, TX, on the one hand, and, on the other, points in the U.S.

MC 153776 filed January 26, 1981. Applicant: SOUTHLAND HOT SHOT SERVICE, INC., P.O. Box 2618, Houma, LA 70361. Representative: Janet Boles Chambers, 8211 Goodwood Blvd., Suite C–2, Baton Rouge, LA 70806. Transporting *Mercer commodities*, between points in AR, AL, CO, FL, LA, MS, NM, OK, TX, and WY.

MC 153796, filed January 21, 1981. Applicant: URBAN TRANSPORT, INC., P.O. Box 12865, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, MN 55118. Transporting *petroleum, natural gas and their products*, between points in Foster County, ND, Dubuque County, IA, and Blue Earth, Swift, and Dakota Counties, MN, on the one hand, and, on the other, points in Polk, Rusk, Sawyer, Vilas, Waupaca, and Oneida Counties, WI, Ramsey, Hennepin, Stearns, Meeker, Winona, and Morrison Counties, MN, and points in SD, ND, and IA.

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Decided: February 9, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

MC 150457 (Sub-1), filed January 9, 1981. Applicant: SARAI ENTERPRISES LTD., a corporation, 12163 Old Yale Rd., Surrey, B.C., CD V3V 3X6. Representative: Jim Pitzer, 15 So. Gray Way, Evergreen Bldg., Suite 321, Renton, WA 98055. In foreign commerce only, transporting *lumber and wood products*, between points in the U.S., under continuing contract(s) with Capilano Timber Company Ltd., of New Westminister, B.C. Canada and Orchardson Forest Products Limited, of Surrey, B.C., Canada.

MC 152957F, filed December 1, 1980, previously noticed in the **Federal Register** issue of December 23, 1980, and republished this issue. Applicant: TURK TRUCKING, INC., Fifth St., West Elizabeth, PA 15088. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting (a) *Lumber and wood products*, and (b) *such commodities* as are dealt in by lumber, hardware and builders supply companies, and *materials, equipment, and supplies* used in connection with the conduct of such business, (1) between points in Allegheny, Butler, and Erie Counties, PA, on the one hand, and, on the other, points in NY, OH, and WV, and (2) between N. Jackson, Columbus,

and Dayton, OH, on the one hand, and, on the other, points in Allen and Marion Counties, IN, and points in Hancock, Brooke, Pleasants, and Wood Counties, WV, and (b) *brick, lumber, and wood products*, between points on the international boundary line between the U.S. and Canada, at Niagara Falls, NY, on the one hand, and, on the other, points in IN, NJ, NY, OH, PA, and WV.

Note.—The purpose of this republication is to correctly state the territorial description in this proceeding.

Volume No. OP4–20

Decided: February 12, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. (Member Fortier not participating.)

MC 39406 (Sub-23), filed January 27, 1981. Applicant: CENTRAL MOTOR LINES, INCORPORATED, P.O. Box 34303, Charlotte, NC 28234. Representative: Leonard A. Jaskiewicz, 1730 M St. N.W., Washington, DC 20036. Transporting *general commodities*, (Classes A and B explosives), between points in McHenry, Lake, Kendall, Will, Cook, Kane, and DuPage Couties, IL, Marion, Johnson, Bartholomew, Jackson, Scott, Clark, Lake, Porter, Marshall, Kosciusko, Whitley, Allen, Elkhart, Noble, Newton, Benton, Tippeconoe, Clinton, Hancock, Shelby, Rush, and Franklin Counties, IN, Lincoln, Boyle, Washington, Nelson, Jefferson, Bell, Knox, Whitely, Laurel, Rock Castle, Madison, Jessamine, Fayette, Scott, Grant, Boone, and Kenton Counties, Ky, Van Wert, Allen, Hardin, Union, Franklin, Pickaway, Ross, Pike, Scioto, Jackson, Gallia, Hamilton, Clermont, Brown, Adams, Washington, Noble, Guernsey, Tuscarawas, Stark, Summit, Cuyahoga, Morgan, Muskingum, Licking, Delaware, Marion, Wyandot, Seneca, Work, and Lucas Counties, OH, Cooke, Jefferson, Hamblen, Grainger, and Claiborne Counties, TN, Carroll, Wythe, Pulaski, Giles, and Pittsylvania Counties, VA, and Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler, Pleasants, Mercer, Raleigh, Fayette, Kanawha, Jackson, Wood, Putnam, Mason, Boyd, Lawrence, Cabell, and Boone Counties, WV.

MC 66886 (Sub-88), filed January 28, 1981. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut St., Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Transporting *metal products*, between points in Boyd County, Ky, on the one hand, and, on the other, points in AR, IL, KS, LA, MN, MO, NE, ND, OK, SD, TX, and WI.

MC 66886 (Sub-89), filed January 28, 1981. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut St., Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Transporting *general commodities* (except classes A and B explosives), (1) between points in IN, KS, MI, MO, and OH, and (2) between points in (1) on the one hand, and, on the other, points in AL, AR, CO, GA, IL, IA, KS, KY, LA, MN, MS, NE, NM, OK, TN,and TX.

MC 66886 (Sub-90), filed January 28, 1981. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut St., Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Transporting (1) *liquid handling systems, aircraft refueling vehicles, tank trucks and parts*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) between points on OH, MO, and NY, on the one hand, and, on the other, points in the U.S.

MC 66886 (Sub-91), filed January 28, 1981. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut St., Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Transporting *metal products*, between points in Licking County, OH, on the one hand, and, on the other, points in AR, CO, KS, MS, MO, NE, and OK.

MC 91306 (Sub-36), filed January 30, 1981. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Ave., NE., Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, D.C. 20005. Transporting *chemicals and related products*, between points in NY and NJ, on the one hand, and, on the other, points in GA, NC, SC, VA, and TN.

MC 108676 (Sub-163), filed January 30, 1981. Applicant: A. J. METLER HAULING & RIGGING, 117 Chicamauga Ave. Knoxville, TN 37917. Representative: Michael S. Teets (same address as applicant). Transporting *clay, concrete, glass or stone products*, between the facilities of Libby-Owens-Ford Company, in the United States, on the one hand, and, on the other, points in the U.S.

MC 126176 (Sub-1), filed February 2, 1981. Applicant: FISHER'S MOVING & STORAGE COMPANY, a Corporation, P.O. Box 2095, Jonesboro, AR 72401. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. Transporting *household goods*, between points in AL, AR, CO, DE, FL, GA, IA, IL, IN, KS, KY, LA, MD, MI, MN, MO, MS, NC, NE, OH, OK, PA, SC, TN, TX, VA, WV, WI, and DC.

MC 133776 (Sub-3), filed January 26, 1981. Applicant: ASSOCIATED TRANSFER & STORAGE, INC., 1310 No. McKinley, P.O. Box 1407, Champaign, IL 61820. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *general commodities* (except classes A and B explosives), between points in AL, AR, IA, IL, IN, KY, MI, MN, MO, OH, PA, TN, and WI.

MC 136916 (Sub-24), filed January 30, 1981. Applicant: LENAPE TRANSPORTATION CO., INC., P.O. Box 227, Lafayette, NJ 07848. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting (1) *commodities in bulk*, between points in CA, FL, IN, IL, MD, NY and NJ, on the one hand, and, on the other, points in ME, VT, NH, MA, RI, CT, NY, NJ, PA, DE, MD, OH, VA and DC. (2) *foods and related products and chemicals and related products*, between points in MD, NJ, and NY, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, DE, MD, NJ, NY, PA, VA, and DC.

MC 144246 (Sub-8), filed February 3, 1981. Applicant: LARSEN TRUCKING, INC., 7703 Sunset Dr., Omaha, NE 68127. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114. Transporting *food and related products*, between points in St. Louis County, MO, on the one hand, and, on the other, points in MN, IA, ND, SD, NE, KS, OK, TX, WI, and CO.

MC 146336 (Sub-17), filed January 28, 1981. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609–109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting (1) *furniture and fixtures*, (2) *rubber and plastic products*, and (3) *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with Scott Paper Company of Philadelphia, PA.

MC 146336 (Sub-18), filed January 30, 1981. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609–109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Serv-A-Portion, Inc., of Chatsworth, CA.

FF–536, filed January 13, 1981. Applicant: AMERICAN AIRLINES, INC., P.O. Box 61616, Dallas/Fort Worth Airport, TX 75261. Representative: George A. Shipman (same address as applicant). As a freight forwarder in connection with the transportation of

general commodities and express packages between points in the U.S.

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Decided: February 9, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. (Member Hill not participating.)

MC 148538 (Sub-1), filed January 23, 1981. Applicant: JOMAR TRUCK LINE, INC., 7547 W. Ponderosa Ct., Orland Park, IL 60462. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *metal products* between points in IL, WI, IN, and MI.

MC 148569 (Sub-5), filed January 16, 1981. Applicant: JAMES BRUCE LEE & STANLEY LEE, d.b.a. LEE CONTRACT CARRIERS, Old Route 66, P.O. Box 48, Pontiac, IL 61764. Representative: Edward F. Stanula, 837 East 162nd St., South Holland, IL 60473. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Steator Dependable Manufacturing Company, Inc. of Streator, IL.

MC 149109 (Sub-1), filed January 27, 1981. Applicant: CHARLEY T. LONG, d.b.a. C & F EQUIPMENT, 12260 Central Road, Apple Valley, CA 92307. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. Tranporting (1) *rubber and plastic products* and (2) *chemicals and related products*, between points in CA, OR, and WA, on the one hand, and, on the other, points in the U.S.

MC 149548 (Sub-1), filed January 27, 1981. Applicant: LAWRY AIR FREIGHT, INC., 16 Union Avenue, Westfield, MA 01085. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. Transporting *general commodities* (except class A and B explosives), between points in CT, MA, ME, NH, NY, RI, and VT.

MC 150939 (Sub-9), filed January 26, 1981. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Zayre Corp. of Framington, MA.

MC 150949 (Sub-8), filed January 27, 1981. Applicant: NFI, INC., Box 664, Waxahachi, TX 75165. Representative: Gerald S. Duzzinski, 71 West Park Ave., Vineland, NJ 08360. Transporting *rubber and plastic products*, between points in AZ, OK, and TX.

MC 152049 (Sub-1), filed January 22, 1981. Applicant: AIRO SERVICES, INC., 2103 E. 112th St., Tacoma, WA 98445. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. Transporting *hazardous materials* between points in WA, ID, MT, and UT, on the one hand, and, on the other, points in WA, OR, ID, MT, and UT.

MC 152618 (Sub-1), filed January 26, 1981. Applicant: WILD RIVER TRUCKING CO., a corporation, Milltown, WI 54858. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *petroleum, natural gas and their products*, between points in Dakota County, MN, on the one hand, and, on the other, points in Burnett and Polk Counties, WI.

MC 152649 (Sub-2), filed January 21, 1981. Applicant: RIVERLAND TRUCKING CORPORATION, INC., West 10th Avenue, Drawer E, Reserve, LA 70084. Representative: Harry M. England (address same as applicant). Transporting *such commodities* as are dealt in or used by a manufacturer of containers and paper and plastic products, between points in the U.S., under a continuing contract(s) with American Can Company of Greenwich, CT.

MC 153679 (Sub-1), filed January 22, 1981. Applicant: CUMBERLAND FREIGHT LINE, INC., 201 25th Ave., N., Nashville, TN 37202. Representative: J. Greg Hardeman, 618 United American Bank Bldg., Nashville, TN 37219. (1) Transporting *such commodities* as are dealt in or used by manufacturers of textile products, under continuing contract(s) with Horace Small Manufacturing Co. of Nashville, TN; and (2) *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with American Paper & Twine Co. of Nashville, TN.

MC 153729, filed January 5, 1981. Applicant: ORGANIZED GROUP TOURS, INC., 1600 Willow St., Suite 102, San Jose, CA 95125. Representative: Serge V. Talbot (same address as applicant). To engage in operations, as a *broker* at San Jose, CA, in arranging transportation of *passengers and their baggage*, in special or charter operations, between points in the U.S.

MC 153848, filed January 21, 1981. Applicant: T.S.D.C., INC., 536 West 169th St., South Holland, IL 60473. Representative: Edward F. Stanula, Box 306, 837 East 162nd St., South Holland, IL 60473. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Tri-State Distribution Center, Inc. of South Holland, IL.

MC 153849, filed January 16, 1981. Applicant: OWENS TRUCKING, P.O. Box 5, Bentonville, AR 72712. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting *such commodities* as are dealt in or used by food business houses and discount and variety stores, between points in the U.S., under continuing contract(s) with Wal-Mart Stores, Inc. of Bentonville, AR.

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Decided: February 9, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. (Member Hill not participating.)

MC 113908 (Sub-520), filed January 23, 1981. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068, G.S., Springfield, MO 65804. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. Transporting *general commodities*, (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Wilson Foods Corporation, of Oklahoma City, OK.

MC 125368 (Sub-123), filed January 16, 1981. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *food and related products* between points in Montcalm County, MI, Portage County, WI, and Stark County, OH, on the one hand, and, on the other, points in AL, AR, CT, DC, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI.

MC 138308 (Sub-136), filed January 16, 1981. Applicant: KLM, Inc., P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Central Ohio Shippers Coordinated Corp. of Columbus, OH.

MC 138308 (Sub-138), filed January 27, 1981. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Transporting *general commodities* (except classes A and B explosives), between points in Madison County, MS, on the one hand, and, on the other, points in the U.S.

MC 141439 (Sub-5), filed January 23, 1981. Applicant: HILL TRUCK LINE, INC., P.O. Box 6291, Omaha, NE 68106. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501.

Transporting *food and related products*, between points in Douglas, Colfax, and Dodge Counties, NE, and Pottawattami County, IA, on the one hand, and, on the other, points in MO, OK, TX, KS, AR, NE, and LA.

MC 142059 (Sub-153), filed January 27, 1981. Applicant: CARDINAL TRANSPORT, INC., P.O. Box 911, Joliet, IL 60434. Representative: Jack Riley (same address as applicant). Transporting *metal products*, between points in Trumbull County, OH on the one hand, and, on the other, points in the U.S.

MC 142059 (Sub-154), filed January 27, 1981. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting *metal products*, between Frederick County, MD, on the one hand, and, on the other, points in the U.S.

MC 145468 (Sub-40), filed January 27, 1981. Applicant: KSS TRANSPORTATION CORP., Rt. 1 and Adams Station, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 201, 9202 West Dodge Road, Omaha, NE 68114. Transporting *food and related products*, between points in Seward County, KS, on the one hand, and, on the other, points in the U.S.

MC 146448 (Sub-25), filed January 27, 1981. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *general commodities*, between points in the U.S., under continuing contract(s) with ICI, Americas Inc., of Wilmington, DE. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate.

1MC 46628 (Sub-8), filed January 27, 1981. Applicant: HUNT SUPER SERVICE, INC., P.O. Box 270, Bradley, IL 60915. Representative: Walter Kobos, 1016 Kehoe Dr., St. Charles, IL 60174. Transporting *such commodities* as are dealt in or used by manufacturers of sound deadening and sealing compounds, between points in the U.S., under continuing contract(s) with Mortell Company, of Kankakee, IL.

Note.—Issuance of a permit in this proceeding is subject to coincidental cancellation of existing permit in MC-146628 Sub 2F.

MC 147259 (Sub-9), filed January 23, 1981. Applicant: CHURCHILL TRANSPORTATION, INC., 2455 24th St., Detroit, MI 48216. Representative: Richard E. VanWinkle, 16901 VanDam, South Holland, IL 60473. Transporting *metal products*, between points in IL, IN, KY, MO, NY, OH, PA, and WI, on the one hand, and, on the other, points in the U.S.

MC 147259 (Sub-10), filed January 23, 1981. Applicant: CHURCHILL TRANSPORTATION, INC., 2455 24th St., Detroit, MI 48216. Representative: Richard E. VanWinkle, 16901 VanDam, South Holland, IL 60473. Transporting *lumber and wood products*, between points in AL, AR, FL, GA, IL, IN, KY, LA, MS, NY, OH, PA, SC, TN, and WV, on the one hand, and, on the other, points in the U.S.

MC 147318 (Sub-3), filed January 30, 1981. Applicant: DEEP SOUTH TRUCKING, INC., Hwy 11 North, P.O. Box 304, Purvis, MS 39475. Representative: Kent F. Hudson, 202 Main St., P.O. Box 696, Purvis, MS 39475. Transporting *iron and steel products*, between points in the U.S., under continuing contract(s) with International Harvester-Pay Line Product Distribution Company, of Gulfport, MS.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6075 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 28873 (Sub-1)]

Norfolk and Western Railway Co., and Chicago and North Western Transportation Co.—Coordination Project—in the City of Albia, Monroe County, IA; Notice of Exemption

Pursuant to 49 CFR 1111.4(g) and 1111.5(c)(3) as amended by *Railroad Consolidation Procedures*, 363 I.C.C. 200 224 and 226 (1980), the Norfolk and Western Railway Company has notified the Commission of its intention to participate in transactions that are considered exempt under 49 U.S.C. 10505.

Norfolk and Western intends to have substituted the name of Wabash Railroad Company (Wabash), a subsidiary non-operating company, for that of Norfolk and Western Railroad Company (NW) in the Bill of Sale and Easement Deed by which the Chicago and North Western Transportation Company (C&NW) acquired approximately 1,947 feet of track and easement which connects NW's Moberly Division between milepost 271.36 and 271.73 in the City of Albia, County of Monroe, IA. The subject track joins what were formerly two disconnected ends of NW's main line in Albia and prior to the authorized acquisition had been operated over by NW and its predecessor, Wabash, pursuant to trackage rights with C&NW and its predecessor, Iowa Central Railway Company. NW proposes to have C&NW substitute the name of Wabash for that of NW as grantee under a corrected Bill of Sale and a corrected Easement Deed No. 80356.

The transaction is within a corporate family that will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balances with carriers outside the corporate family. For the reason, the transaction is eligible for exemption, 49 CFR 1111.5(c)(3). Consummation may occur upon publication of this notice.

In granting this exemption we may not relieve a carrier of its obligation to protect the interests of employees. See 49 U.S.C. 10505(g)(2) as amended by the Staggers Rail Act of 1980 (Pub. L. No. 96-448, October 14, 1980). Therefore, we will require, as a condition to use of this exemption, the same level of labor protection as is usually required in the type of transactions proposed here. We have determined that the employee protective provisions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), satisfy the statutory requirements of 49 U.S.C. 11347 for protection of employees involved in these transactions, which normally would require approval under 49 U.S.C. 11343. The exemption, therefore, will be subject to those protective provisions.

NW's failure to comply with these requirements may be grounds to revoke the exemption.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6076 Filed 2-23-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-81-2-M]

AMAX Lead Co. of Missouri; Petition for Modification of Application of Mandatory Safety Standard

AMAX Lead Company of Missouri, Boss, Missouri 65440, has filed a petition to modify the application of 30 CFR 57.4-61B (fire doors; installation) to its Buick Mine located in Iron County, Missouri. The petition is filed under

section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that fire doors be installed in the production level maintenance shop.

2. The underground production level shop consists of one room, 240 feet in length, and two rooms, 120 feet in length, which are connected by three crosscuts. The nominal width of all rooms and crosscuts is 30 feet, with the height varying from 12 to 30 feet. The ribs, back (roof) and floors consist of dolomite and concrete, both non-combustible.

3. As an alternative to installing fire doors, petitioner proposes to install and use a pressurized automatic and manual water sprinkler system, with associated dry chemical fire suppressants.

4. In addition to the proposed automatic/manual water sprinkler system, there are 29 manual fire extinguishers, two 150 feet water hopses with fogger nozzles and two 150 pound dry chemical mobile fire suppressant systems located within the shop.

5. Petitioner further states the shop is manned 160 hours per week; in the event of a fire within the shop, personnel using the manual fire extinguishing systems supported by the proposed automatic/manual water sprinkler system could contain and extinguish the fire faster than the time required to evacuate and seal off the shop.

6. Petitioner states that the proposed alternate method will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 26, 1981. Copies of the petition are available for inspection at that address.

Dated: February 17, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-6198 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-179-C]

Leeco, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Leeco, Inc., Route 9, Box 15, London, Kentucky 40741, has filed a petition to modify the application of 30 CFR 75.805 (couplers) to its mines nos. 44 and 45 located in Leslie County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements for the use of and type of couplers to be used in the petitioner's mine.

2. As an alternate method, petitioner proposes to use junction boxes manufactured by Pemco Corporation and equipped with a Micro switch wired in series with the ground check circuit to cause the power circuit to be deenergized in the event the cover is removed. The boxes are constructed of one-eighth inch steel and equipped with insulated strain clamps.

3. In support of this proposed alternate method, petitioner states that the following stipulations will be observed:

a. Junction boxes will be located in dry, well rock-dusted areas or supported above wet locations. The boxes may be supported on concrete blocks or the equivalent;

b. All junction boxes shall be identical to Pemco Corporation part number J-133527;

c. When different size cables are used, fittings for the cable entrance shall be properly sized and secured to prevent strain on the electrical connections;

d. The high-voltage cables shall be terminated in accordance with the termination kit manufacturer's recommendations; and

e. The junction boxes and cables shall be protected in accordance with the provisions of 30 CFR 75.807 and 75.1107-1(a)(3).

4. Petitioner states that this alternate method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 26, 1981. Copies of the petition are available for inspection at that address.

Dated: February 17, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-6199 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-174-C]

Mine Hill Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Mine Hill Coal Company, 247 Wallace Street, Pottsville, Pennsylvania 17901 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity and velocity) to its Little Buck Mountain Slope located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. There is no history of ignition, explosion or mine fire.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternative method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

9. Petitioner states that the alternative method proposed will at all times provide the same measure of protection

for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All Comments must be postmarked or received in that office on or before March 26, 1981. Copies of the petition are available for inspection at that address.

Dated: February 13, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-6207 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-106-M]

Occidental Oil Shale, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Occidental Oil Shale, Inc., P.O. Box 2687, Grand Junction, Colorado 81502 has filed a petition to modify the application of 30 CFR 57.21-46 (crosscut intervals) to its Federal Prototype Oil Shale Lease Tract C-b located in Rio Blanco County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that crosscuts be made at intervals not in excess of 100 feet between entries and between rooms.

2. Petitioner states that flammable gas has appeared in only negligible concentrations in the vicinity of the Production and Service Shafts; larger concentrations, or gas pockets, if they exist, would first be encountered either with pneumatic drilling equipment which operate under wet conditions or at the time of blasting when the shaft is completely evacuated of personnel.

3. Petitioner seeks a modification to permit driving single drifts in excess of 100 feet between the Production and Service Shafts in conjunction with the following procedures:

a. Ventilation will be initiated by a single 75 Hp type fan, directing air down the service shaft as an intake shaft; this fan is located on the surface over 15 feet from the mine opening and provided with a blast door;

b. Drifting between the Service Shaft and the Production Shaft will be supported by fresh air drawn across the work face by an exhaust type permissible 100 Hp auxiliary fan; this fan and the connected rigid line will exhaust directly into the return air of the Production Shaft.

4. Petitioner states that the proposed alternate method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 26, 1981. Copies of the petition are available for inspection at that address.

Dated: February 13, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-6204 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-7-M]

Morton Salt Co.; Petition for Modification of Application of Mandatory Safety Standard

Morton Salt Company, P.O. Drawer M, Grand Saline, Texas 75140 has filed a petition to modify the application of 30 CFR 57.19-124 (hoist ropes; requirements) to its Grand Saline operations located in Van Zandt County, Texas. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that hoist ropes, other than those on friction, be cut off at least six feet above the highest connection to the conveyance at time intervals not to exceed one year unless a shorter time is required by 30 CFR 57.19-126 or by conditions of use.

2. As an alternative, petitioner proposes that the following procedures will be followed:

a. Daily inspection will be made of hoist ropes and the results recorded;

b. Wire ropes will be greased on a regular basis;

c. The cage cable will be changed every two years and replaced with a new one;

d. The cable on the skip will be replaced every two years by the cable being taken off the cage;

e. Every six months the entire length of the cable will be X-rayed, checking for wear or damage.

3. Petitioner states that the procedures outlined above provide the same degree of safety to the miners affected as that afforded by the standard, and for those reasons requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 26, 1981. Copies of the petition are available for inspection at that address.

Dated: February 13, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-6200 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-4-M]

Occidental Oil Shale, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Occidental Oil Shale, Inc., P.O. Box 2687, Grand Junction, Colorado 81501 has filed a petition to modify the application of 30 CFR 57.4-43 (buildings; requirements) to its Logan Wash Mine located in Garfield County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that buildings within 100 feet of a mine opening be constructed of fire resistant materials.

2. Petitioner presently has a building which is anchored to a concrete foundation with a 26 gauge galvanized steel roof and panels mounted on all steel structural framing.

3. This building is intended to house the vent raise switchgear and is located approximately 67 feet from an intake raise. During mid-February 1981, fans will be mounted on the raise and it will become exhaust.

4. Petitioner states that the regulation was intended for structures of wood or similar construction and that the metal structure in use provides the same degree of safety to the miners as that afforded by the standard.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 26, 1981. Copies of the petition are available for inspection at that address.

Dated: February 13, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-6205 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-169-C]

P.S. & R. Coal Co; Petition for Modification of Application of Mandatory Safety Standard

P.S. & R. Coal Company, 203 Gap Street, Valley View, Pennsylvania 17983 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 2 Slope located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if a "makeshift" safety device were installed, it would be activated on knuckles and curves, when no emergency existed, causing a tumbling effect on the conveyance which would increase rather than decrease the hazard to the miners.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, which have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 26, 1981. Copies of the petition are available for inspection at that address.

Dated: February 13, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-6206 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-175-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, Camp No. 1, P.O. Box 350, Morganfield, Kentucky 42437, has filed a petition to modify the application of 30 CFR 75.1403-5(g) (clear travelways at belt conveyors to its Camp No. 1 located in Union County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a clear travelway at least 24 inches wide be provided on both sides of all belt conveyors, installed after March 30, 1970, or where roof supports are installed within 24 inches of a belt conveyor, a clear travelway at least 24 inches wide be provided on the side of such support farthest from the conveyor.

2. As an alternate method, petitioner proposes to install belt crossovers at two locations over the conveyor belt in lieu of requiring 24 inch clearance on each side of the belt.

3. Petitioner states that crossovers are needed due to the side clearance being only 18 inches on the right because of installation of an overcast. There is an excess of 24 inch side clearance on the left side of the conveyor belt.

4. In support of the proposed alternate method, petitioner states that the following precautions will be taken:

a. Signs will be posted on inby and outby sides of the affected area warning all persons of the close clearance;

b. No work will be performed in the area of close clearance while the belt is running;

c. Persons working in the close clearance area will be familiar with the hazards associated with working near the belt; and

d. Start and stop controls will be installed immediately inby and outby the affected area to shutdown the belt as necessary.

5. Petitioner states that this alternate method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 26, 1981. Copies of the petition are available for inspection at that address.

Dated: February 17, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-6201 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-176-C]

Ramey Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Ramey Coal Company, P.O. Box 793, Grundy, Virginia 24614, has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 2 Mine located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's shuttle cars, roof bolters and Lee Norse miner.

2. The coal seam ranges from 42 to 48 inches in height with consistent ascending and descending dips in the coal bed.

3. Installation of cabs or canopies on the mine's equipment would result in a

diminution of safety to the miners affected because the canopies may strike the roof, destroying roof support. In addition, canopies limit the equipment operator's visibility which creates a hazard to the equipment operator and the miners in the area.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 26, 1981. Copies of the petition are available for inspection at that address.

Dated: February 17, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-6202 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-8-M]

St. Joe Minerals Corp.; Petition for Modification of Application of Mandatory Safety Standard

St. Joe Minerals Corporation, Southeast Missouri Mining and Milling Division, Viburnum, Missouri 65566, has filed a petition to modify the application of 30 CFR 57.4-61-B (fire doors) to its Fletcher and Bushy Creek Mines located in Iron County, Missouri. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that fire doors be installed in each opening of an underground shop.

2. Each mine has an ore hoisting shaft, a service hoisting shaft and a number of ventilation shafts, all used to ventilate the mines.

3. Petitioner states that the direction of fresh air into the shop area is capable of being reversed in less than 90 seconds by reversing the primary fans at the ore hoisting shaft. Each mine presently has four downcast and two upcast ventilation shafts; these downcast ventilation shafts greatly reduce the chance that smoke and gas would spread throughout the whole mine in the event of a fire in the shop area.

4. Petitioner states that the procedures outlined above would provide the same degree of safety to the miners affected as that afforded by the standard.

5. Petitioner further states that the chance that smoke and gas will spread from the shop area under the standard's system is actually greater because more time would be required to close fire doors into the shop area that to switch the direction of air flow.

6. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 26, 1981. Copies of the petition are available for inspection at that address.

Dated: February 17, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-6203 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Cancellation of Meeting

The meeting of the Advisory Committee on Construction Safety and Health which was announced in the **Federal Register** of January 23, 1981 (46 FR 7539) is hereby cancelled. The Committee was to have met on March 10-11, 1981.

The Advisory Committee on Construction Safety and Health was established under Section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and Section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act.

Signed at Washington, D.C., this 19th day of February 1981.

David C. Zeigler,

Acting Deputy Assistant Secretary of Labor.

[FR Doc. 81-6244 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

[TA-W-8409]

Eltra Corp., Prestolite Electronics Division, Decatur, Alabama; Affirmative Determination Regarding Application for Reconsideration

On January 8, 1981, applicants requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Woker Adjustment Assistance for workers and former workers of the Prestolite Electronics Division of Eltra Corporation, Decatur, Alabama. The determination was published in the **Federal Register** on December 15, 1980 (45 FR 83695).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The applicant for reconsideration claims that the Department's negative determination "was erroneous on two grounds". First, that the Department had erroneously determined that the applicant's products were component parts of a final product, and, secondly, the Department failed to consider the percentage of the applicant's product which is manufactured and sold as replacement parts and not incorporated into any other product.

In both the first and second claims stated above, the applicant appears to have misunderstood the Department's position. The Department in its original determination did regard the ignition parts (equipment) produced at Prestolite on their own in its consideration of the import impact on those products, regardless of whether they are used as components for original equipment or replacement parts. These ignition equipment products are used as both component parts of a final original equipment product, e.g., automobile, and as replacement parts for a used final product. However, the Department, in effect, treated them as final articles, and was unable to regard the ignition parts incorporated in imported vehicles as being "like or directly competitive with" the ignition parts produced by Prestolite.

as that term is used in the Trade Act of 1974.

In its investigation, the Department found that imports of directly competitive ignition equipment declined relative to domestic production in 1979 compared to 1978 and decreased absolutely in the first six months of 1980 compared to the same period in 1979.

In addition, to reiterate the Department's findings in the original determination with respect to the customer survey, it was found that customers representing a majority of Decatur's sales during 1978, 1979 and the first half of 1980 indicated that they either did not purchase imported solenoids, distributors, electronic ignition systems, voltage regulators, contact sets, condensers, and distributor caps, or, that they imported only a negligible amount compared to their total purchases of these products. The replacement market was included in the customer survey.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 11th day of February 1981.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 81-6210 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9026; 9246-48; 9250-51; 9253; 10,733; 10,735; 10,743-44; 10,748; 10,757; 10,761; 10,763; 10,766; 10,771-72; 10,775; 10,778; 10,781; 10,797; 10,799; 10,801-14; 10,818-44; 10,846-48]

General Motors Corp., Detroit, Mich.; Amended Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued Certifications of Eligibility To Apply for Adjustment Assistance on October 10, 1980, applicable to all workers of certain designated support facilities of General Motors Corporation, Detroit, Michigan. The Certifications were published in the **Federal Register** on October 21, 1980 (45 FR 69600). The Department also issue Notices of Amended Certification of Eligibility To Apply for Worker Adjustment Assistance on November 14, 1980 (45 FR 75368); December 5, 1980 (45 FR 80602) and on January 23, 1981 (46 FR 7537).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certifications. The additional information revealed that significant layoffs occurred prior to the May 1, 1980, impact date set for the General Motors Proving Ground located at Milford, Michigan. Layoffs also occurred just prior to the impact dates of March 1, 1980, May 1, 1980 and June 1, 1980 set for workers at the Chevrolet Motors Division's Zone and Regional Offices in Oakbrook, Illinois, TA-W-10,808 and for workers at the General Motors Central Office in Warren, Michigan, TA-W-9026; Chevrolet Motor Division's Regional Sales Office in Detroit, Michigan, TA-W-10,802; Chevrolet Motor Division's Zone and Regional Offices in Southfield, Michigan, TA-W-10,825; Chevrolet Motor Division's Zone Sales Office in Fargo, North Dakota, TA-W-10,835; and for workers at Chevrolet Motor Division's Zone Sales Office in Tempe, Arizona, TA-W-10,811; Chevrolet Motor Division's Zone Sales Office in Edina, Minnesota, TA-W-10,827; Chevrolet Motor Division's Zone Sales Office in Maryland Heights, Missouri, TA-W-10,828; Chevrolet Motor Division's Zone Sales Office in Bethpage, Long Island, New York, TA-W-10,831; and Chevrolet Motor Division's Zone Sales Office in Wormleysburg, Pennsylvania, TA-W-10,840. These layoffs were not covered by the impact dates set in the certifications immediately cited above.

The intent of the certifications is to cover all workers at the instant General Motors support facilities who were affected by the decline in production of import impacted GM vehicles. The Certifications, therefore, are amended to include new impact dates: January 1, 1980 for workers at the GM Proving Ground in Milford, Michigan, TA-W-10,761 and at Chevrolet Motor Division's Zone and Regional Offices in Oakbrook, Illinois, TA-W-10,808; April 1, 1980 for workers at GM Central Office in Warren, Michigan, TA-W-10,9026; Chevrolet Motor Division's Regional Sales Office in Detroit, Michigan, TA-W-10,802; Chevrolet Motor Division's Zone Sales Office, Southfield, Michigan, TA-W-10,825; Chevrolet Motor Division's Zone Sales Office, Edina, Minnesota, TA-W-10,827; and the Chevrolet Motor Division's Zone Sales Office in Fargo, North Dakota, TA-W-10,835; and May 1, 1980 for workers at Chevrolet Motor Division's Zone Sales Office in Tempe, Arizona, TA-W-10,811; Chevrolet Motor Division's Zone Sales Office in Maryland Height, Missouri, TA-W-10,828; Chevrolet Motor Division's Zone Sales Office in Bethpage, Long Island, New York, TA-W-10,831; and Chevrolet Motor Division's Zone Sales Office in Wormleysburg, Pennsylvania, TA-W-10,840.

The certifications applicable to TA-W-9026; TA-W-10,761; TA-W-10,802; TA-W-10,808; TA-W-10,811; TA-W-10,825; TA-W-10,827; TA-W-10,828; TA-W-10,831; TA-W-10,835; and TA-W-10,840 are hereby amended as indicated in the appendix.

Appendix

TA-W-	Facility	Location	Impact date
9026	GM Central Office	Warren, Mich	Apr. 1, 1980.
10,761	GM Proving Ground	Milford, Mich	Jan. 1, 1980.
10,802	Chevrolet Regional Sales Office	Detroit, Mich	Apr. 1, 1980.
10,808	Chevrolet Zone and Regional Offices	Oakbrook, Ill	Jan. 1, 1980.
10,811	Chevrolet Zone Sales Office	Tempe, Ariz	May 1, 1980.
10,825	do	Southfield, Mich	Apr. 1, 1980.
10,827	do	Edina, Minn	Do.
10,828	do	Maryland Heights, Mo.	May 1, 1980.
10,831	do	Bethpage, Long Island, N.Y.	Do.
10,835	do	Fargo, N. Dak	Apr. 1, 1980.
10,840	do	Wormleysburg, Pa.	May 1, 1980.

and issued as follows:

"All workers of the support facilities of General Motors Corporation listed in the Appendix who became totally or partially separated from employment on or after the impact date listed in the Appendix and before November 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C., this 12th day of February 1981.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 81-6208 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9984, 9984A and 9984B]

Robertson Shake, Inc., Robertson Distributing Co., Chehalis, Washington, and Mr. Handiman Home Center, Inc., Centralia, Wash.; Certification 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 the

results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigation was initiated on August 11, 1980 in response to a petition which was filed on behalf of workers at Robertson Shake, Incorporated, Chehalis, Washington. The workers produce red cedar shakes, shingles, hips and ridges. The investigation was expanded to include two affiliated companies; Robertson Distributing Company, Chehalis, Washington and Mr. Handiman Home Center, Incorporated, Centralia, Washington.

U.S. imports of red cedar shakes, shingles, hips and ridges increased absolutely and relative to domestic production in 1979 compared to 1978 before declining absolutely during the first three quarters of 1980 compared with the first three quarters of 1979.

A Department of Commerce survey of Robertson Shake, Incorporated's customers revealed that customers reduced purchases from Robertson Shake, Incorporated while increasing their purchases of imported shakes, shingles, hips and ridges.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with red cedar shakes, shingles, hips and ridges produced at Robertson Shake, Incorporated, Chehalis, Washington, hauled by Robertson Distributing Company, Chehalis, Washington, or sold by Mr. Handiman Home Center, Incorporated, Centralia, Washington contributed importantly to the decline in sales or production and to the total or partial separation of workers of these firms. In accordance with the provisions of the Act, I make the following certification:

All workers of Robertson Shake, Incorporated, Robertson Distributing Company, Chehalis, Washington, and Mr. Handiman Home Center, Inc., Centralia, Washington who became totally or partially separated from employment on or after August 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of February 1981.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 81-6209 Filed 2-23-81; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act. (Pub. L. 92-463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at 806 15th Street, N.W., Washington, DC 20506:

(1)

Date: March 23-24, 1981.
Time: 9:00 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applicantions submitted for Youth Projects Major Project Grants, Division of Special Programs, for projects beginning after July 1, 1981.

(2)

Date: March 30-31 1981.
Time 9:00 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications submitted for Youth Projects Major Project Grants, Division of Special Programs, for projects beginning after July 1, 1981.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose:

(1) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) information of a personal nature the disclosure or which would constitute a clearly unwarranted invasion of personal privacy; and

(3) information the disclosure of which would significantly frustrate implementation of proposed agency action;

Pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506 or call (202) 724-0367.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 81-6213 Filed 2-23-81; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Social Sciences Advisory Committee

Subcommittee on Economics; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Economics of the Advisory Committee for Social Sciences.
Date and Time: March 6-7, 1981,[1] 9:00 a.m. to 5:00 p.m. each day.
Place: Room 642 and 628, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.
Type of Meeting: Closed.
Contact Person: Dr. Daniel H. Newlon, Program Director for Economics, Room 312, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357-9674.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Purpose of Subcommittee: To provide advice and recommendations concerning support for research in economics.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-462. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 81-6038 Filed 2-23-81; 8:45 am]

BILLING CODE 7555-01-M

[1] Reason for late notice: Difficulty in arriving at an acceptable meeting date for the subcommittee members.

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-424 and 50-425]

Georgia Power Co., Oglethorpe Electric Membership Corp., Municipal Electric Authority, City of Dalton (Alvin W.Vogtle Nuclear Plant, Units 1 and 2); Proposed Issuance of Amendment to Construction Permits

The Nuclear Regulatory Commission (the Commission) has received a request dated December 19, 1980, for issuance of amendments to Construction Permits Nos. CPPR-108 and CPPR-109, issued to Georgia Power, et al, (the Permittees), for the Alvin W. Vogtl Nuclear Plant (the facility), a pressurized water reactor to be located in Burke County, Georgia.

The proposed amendments would reflect a modification in plant design. the modification proposes to delete an enclosure building covering the above-grade portions of the primary containment building. The Permittees support the application for the design modification with a revised analysis of the radiological consequences of a postulated loss-of-coolant accident which shows offsite post-accident doses which are less than, or comparable to, doses judged to be acceptable for design now and at the time construction was initially authorized.

Prior to issuance of the proposed amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 26, 1981, the Permittee may file a request for a hearing with respect to issuance of the amendments to the subject facility construction permits and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition of leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to A. Schwencer: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to George F. Trowbridge, Esq., Shaw, Pittman, Potts and Trowbridge, attorney for Permittees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)-(v) and 2.714(d).

The proposed modification of the facility represents a change in the major features or components incorporated therein for the protection of the health and safety of the public. The Commission's staff has determined that the proposed modification may represent a significant hazards consideration and an opportunity for public hearing should be afforded.

For further details with respect to this matter, see the application for amendment dated December 19, 1980, Supplement 6 to the application for a construction permit and operating license dated August 21, 1979, and Supplement 8 to the application for a construction permit and operating license dated December 30, 1980, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Burke County Public Library, Fourth Street, Waynesboro, Georgia 30830. As they become available, the following documents may be inspected at the above locations: (1) the supplement to the safety evaluation prepared by the Commission's staff, and (2) the Environmental Impact Statement, or Negative Declaration and Impact Appraisal.

Dated at Bethesda, Maryland this 17th day of February 1981.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 81-5868 Filed 2-23-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443; 50-444]

Public Service Company of New Hampshire, et al. (Seabrook Station, Units 1 and 2)

Notice of Evidentiary Hearing

Notice is hereby given that, in accordance with the Appeal Board's order of February 17, 1981, an evidentiary hearing on the seismic issues remanded to this Board by the Commission will be heard at 9:00 a.m. on Monday, April 6, 1981, in the Courtroom of the Superior Court, Hillsborough County Courthouse, 19 Temple Street, Nashua, New Hampshire.

Dated: February 18, 1981.

For the Appeal Board.

Barbara A. Tompkins,

Secretary to the Appeal Board.

[FR Doc. 81-6171 Filed 2-23-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

South Carolina Electric & Gas Co.; Availability of Safety Evaluation Report for Virgil C. Summer Nuclear Station, Unit 1

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed operation of the Virgil C. Summer Nuclear Station, Unit 1, to be located in Fairfield County, South Carolina. Notice of receipt of South Carolina Electric & Gas Company's application to operate the Virgil C. Summer Nuclear Station, Unit 1 was published in the **Federal Register** on April 18, 1977 (42 FR 20203).

The report has been referred to the Advisory Committee on Reactor Safeguards and is being made available to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Richland County Public Library, 1400 Sumter Street, Columbia, South Carolina 29201 for inspection and copying. The report (Document No. NUREG-0717) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and from the Sales Manager, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland this 18th day of February 1981.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 81-6172 Filed 2-23-81; 8:45 a.m.]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Payment of Employer Liability for Plan Terminations Initiated Before Apr. 1, 1981

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notification of change in procedure for payment of employer liability; amendment.

SUMMARY: This document amends the notice published in the **Federal Register** on January 28, 1981 as FR Doc. 81-2986 (46 FR 9545) to defer the effective date of the notice to April 1, 1981. This action in necessary to eliminate a gap between the published effective date and the deferred effective date of 29 CFR Part 2613 established in compliance with a Memorandum from the President of the United States, Ronald Reagan, on the Postponement of Pending Regulations. This action will prevent confusion concerning the date by which certain employers must pay their liability to PBGC to avoid the imposition of interest.

EFFECTIVE DATE: The effective date of this notification published at 46 FR 9545 and of 29 CFR Part 2613 published at 46 FR 9520, to which it relates is April 1, 1981.

FOR FURTHER INFORMATION CONTACT: David Weingarten, Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-3010.

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") published its final regulation on employer liability, 29 CFR Part 2613, at 46 FR 9520, to become effective March 1, 1981. On the same day, PBGC published a "Notification of change in procedure for payment of employer liability", at 46 FR 9545, as a companion document to 29 CFR Part 2613, to provide guidance for the payment of employer liability during the period before March 1, 1981 and to give notice of rules concerning the implosition of interest on certain unpaid employer liability.

On January 29, 1981, President Ronald Reagan issued a memorandum (46 FR 11227) requesting that executive agencies, by notice published in the **Federal Register**, postpone for at least 60 days from the date of the memorandum the effective date of all regulations scheduled to become effective during that time period. The PBGC is publishing such a notice; however, without an amendment to FR Doc. 81-2986, 46 FR 9545, January 28, 1981, there is a gap between the effective date of the notice and the effective date of the final regulation, 29 CFR Part 2613, to which it relates. The notice, FR Doc. 81-2986 was intended to provide guidance on payment of employer liability between the date of publication and the date 29 CFR Part 2613 becomes effective and having different effective dates will lead to confusion. Therefore, FR Doc. 81-2986 is amended by changing "March 1" to "April 1" in the following locations on page 9545: in the subject heading in column 1 on line 4, in "Summary" paragraph on line 29, in "Effective Date" paragraph, and in first full "Supplementary Information" paragraph on line 16; and in column 2, third full paragraph on line 6.

Issued at Washington, D.C., on this 17th day of February 1981.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-6160 Filed 2-23-81; 8:45 am]

BILLING CODE 7708-01-M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Health Care Distribution and Availability

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committees Act, that the seventh meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in the Hamilton Room, Messanine, Hay Adams Hotel, 800 16th Street, N.W., Washington, D.C., from 9:00 a.m. to 5:00 p.m. on Friday, March 13, 1981 and from 8:30 a.m. to 4:30 p.m. on Saturday, March 14, 1981.

The meeting will be open to the public, subject to limitations of available space. The agenda of this Commission meeting will include, among other things, the ethical and empirical issues in the availability and distribution of health care, and the confidentiality of, and access to, medical and research records.

During the afternoon of Friday, March 13, one-half hour will be devoted to comments from the floor on the subject of any of the agenda items, limited to three minutes per comment. Written suggestons and comments will be accepted for the record from those who are unable to speak because of the constraints of time or those unable to attend the meeting.

Records shall be kept of all Commission proceedings and will be available for public inspection at the Commission's office, located in Suite 555, 2000 K Street, N.W., Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653–8051.

Alexander M. Capron,

Executive Director.

[FR Doc. 81–6070 Filed 2–23–81; 8:45 am]

BILLING CODE 6820–AV–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No 11625; 812–4735]

INA Tax-Free Reserve Fund, Inc.; Filing of an Application

February 18, 1981.

Notice is hereby given that INA Tax-Free Reserve Fund, Inc. ("Applicant"), 3531 Silverside Road, Wilmington, Delaware 19810, an open-end, diversified managment investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on September 16, 1980, and amendments thereto on February 2 and February 3, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 threrunder to the extent necessary to permit Applicant to compute its net asset value per share using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is a corporation incorporated under the laws of the State of Maryland. Applicant states that its investment objective is the maximization of current income exempt from Federal income taxes to the extent consistent with preservation of capital and maintenance of liquidity.

Applicant represents that it will invest in tax-exempt instruments largely consisting of debt obligations issued by state or minicipal governments and public authorities; securities sold be state or municipal government and public authorities as interim financing in anticipation of tax collections, revenue receipts or bond sales; project notes which are secured by the full faith and credit of the United States; and commitments to purchase the above described securities on a "when-issued" basis. According to the application, Applicant's portfolio will be limited to those tax-exempt instruments rated at least Aa, MIG–1 or MIG–2 by Moody's Investors Services, Inc., or at least AA by Standard & Poor's Corporation. Applicant further states that tax-exempt instruments which are not rated may be purchased if they are of comparable quality to rated instruments as determined by Applicant's Board of Directors.

To the extent that suitable tax-exempt investments are unavailable or that funds must be invested on a temporary basis, Applicant proposes to make defensive or temporary investments in taxable obligations consisting of securities issued or guaranteed by the United States government or any of its agencies or insturmentalities; bank money instruments (largely certificates of deposit) issued by large, insured, domestic commercial savings banks and savings and loan associations; commercial paper rated Prime–1 or Prime–2 by Moody's or A–1 or A–2 by Standard & Poor's; corporate bonds rated at least Aa by Moody's or AA by Standards & Poor's; unrated corporate debt instruments provided they are of comparable quality as determined by the Applicant's Board of Directors; and repurchase agreements.

Applicant further proposes to establish a dividend policy whereby its net income will be declared as a daily dividend. According to the application, income of the Applicant for the applicable dividend period will consist of: (a) interest accrued and discount earned (including both original issue and market discount), if any, less (b) amortization of premium and accrued expenses of the Applicant.

Applicant states that its net asset value per share for determining the price at which shares are issued and redeemed will be calculated immediately following the daily declaration of dividends by: (a) valuing all portfolio investments as set forth below; (b) deducting the Applicant's liabilities; and (c) dividing the resulting amount by the number of the Applicant's shares outstanding. Applicant further states that portfolio securities and instruments will be valued on the basis of amortized cost (i.e., portfolio securities and instruments will be valued at cost on the date of purchase and thereafter assume a constant amortization of any discount or premium until the security or instrument matures).

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio by means of the amortized cost method of valuation.

In support of the relief requested, Applicant states its belief that potential investors in shares of the Applicant are concerned that (1) the net asset value of their shares remain stable and (2) investment income be steady. Applicant

asserts that by maintaining a portfolio of high quality money market instruments of short maturities, it can provide these features to investors. Applicant has further determined that maintaining an average weighted portfolio maturity of 120 days or less will accomplish the aims of Applicant's investors by reducing the risk of significant volatility in the value of portfolio instruments and at the same time producing a yield commensurate with those available in the short-term, tax-exempt money market. Applicant represents that its Board of Directors has determined in good faith that in the light of the characteristics of the Applicant, and absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for the Applicant and will reflect the fair value of its securities. The Applicant further represents that the granting of the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act.

Applicant expressly consents to the imposition of the following conditions in any order granting the exemptive relief it requests:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Directors undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Directors shall be the following duties and responsibilities:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated by it.

(c) Where the Board of Directors believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding or reducing dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will neither (a) purchase any instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will include in the minutes of Board of Directors' meetings and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board's consideration and actions taken in connection with the discharge of its responsibilities, as set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Board of Directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 13, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon.

Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-6106 Filed 2-23-81; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this obligation, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Directors in the exercise of its discretion to be appropriate indicators of value, which may include among other things, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing; Drought Emergency Action; Public Hearing

The Susquehanna River Basin Commission (hereinafter "the Commission") will hold a public hearing

to receive comments from citizens, government agencies and others on the drought management options available to the Commission under the provisions of Article II of the Susquehanna River Basin Compact, Pub. L. 91–575. The hearing will be held in conjunction with the Commission's regular monthly meeting on March 12, 1981 at the Commission headquarters building, 1721 N. Front St., Harrisburg, Pa., beginning at 10:00 a.m.

The provisions of Article II would allow Commission implementation of certain extraordinary measures, such as limiting the withdrawals of water for certain purposes, to mitigate drought conditions which have developed in the Susquehanna Basin over the past several months. A continuation or worsening of these conditions poses a threat to public health and safety and could result in additional adverse environmental, social and economic consequences.

The hearing will be informal in nature. Interested parties are invited to attend the March 12th hearing and to participate by making oral or written statements presenting their data, views and comments on the subject. Those wishing to personally appear to present their views are urged to notify the Commission in advance that they desire to do so. However, any person who wishes to be heard will be given opportunity to be heard, whether or not they have given such notice. After the hearing, the Commission will evaluate all relevant material and decide on a course of action.

For additional information, contact the Secretary, Richard A. Cairo, Susquehanna River Basin Commission, 1721 N. Front St., Harrisburg, PA 17102, (717) 238–0423.

Dated: February 17, 1981.

Robert J. Bielo,

Executive Director.

[FR Doc. 81–6141 Filed 2–23–81; 8:45 am]

BILLING CODE 7040–01–M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 36
Tuesday, February 24, 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).

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1

FEDERAL COMMUNICATIONS COMMISSION.

The Commission will hold a Closed Meeting on the subject listed below on Wednesday, February 25, 1981, following the Open Meeting, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Common Carrier—1—*Subject:* Carrier applications for authority to expand communication links between the United States and Cuba.

Common Carrier—2—IRC's requests for informal meetings between the carriers and staff members, under the auspices of the Commission, to resolve the accounting rate level dispute between the U.S. IRCs and CEPT.

Complaints and Compliance—1—Pending license renewal applications of Television Stations KLRN, San Antonio, Texas, and KLRU, Austin, Texas.

Hearing—1—Draft Decision in the Alexander S. Klein, Jr., Media, Pennsylvania, comparative FM radio proceeding, [Docket Nos. 20567-9).

General—1—Internal Personnel Matters

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office telephone number (202) 254-7674.

Issued: February 18, 1981.

Federal Communications Commission.
William. J. Tricarico,
Secretary.

[S-0296-81 Filed 2-20-81; 2:19 pm]
BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, February 25, 1981, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Petition for Reconsideration of a Commission decision which denied a FOIA request by Alaskans for Better Media for inspection of the 1979 annual financial reports of five broadcast stations licensed to Northern Television, Inc. *Summary:* The Commission denied Alaskan's request on the basis that the Forms 324 are exempt from release under 5 U.S.C. § 552(b)(4) and that Northern had not placed its 1979 financial condition in issue in the underlying renewal proceeding. Alaskans seeks reconsideration of the Commission's ruling.

General—2—*Title:* Add new Section 1.103 to the Commission's Rules, which will 1) establish the effective date of Commission actions and 2) establish a date by which Commission actions are final for purposes of seeking reconsideration or judicial review. Amend Section 1.4(b) of the rules. *Summary:* The Commission must decide whether to adopt a new rule which establishes that the effective date of any Commission action will be the date of public notice of such action, unless affirmatively designated otherwise. The new rule will also provide that all Commission decisions become final, for purposes of initiating further relief, on the date of public notice of such decision. Also, the Commission will consider whether to amend Section 1.4(b) of the rules and establish that the date of public notice will commence at 3 P.M. Eastern Time on the day after the occurence of certain events.

General—3—*Title:* In re General Docket 80-284 for amendment of Parts 2 and 15 of the Rules, relating to verification and methods of measurement of computing devices. *Summary:* Regulations limiting the interference potential of computing devices were adopted in docket 20780 on September 18, 1979, and amended on March 27, 1980. The instant proceeding considers uniform methods of testing computing devices to determine compliance with the technical standards established in Docket 20780. Also considered are rules to spell out a verification procedure—a self-issued form of equipment authorization. The item before the Commission discusses the merits of these actions.

Private Radio—1—*Title:* Amendment of Subpart H of Part 90 of the Commission's Rules and Regulations to allow facilitated procedures for the interservice sharing of private land mobile frequency assignments. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rule Making proposing to amend its rules to facilitate the procedures for the interservice sharing of private land mobile frequencies. If adopted, these procedures would eliminate the need for a waiver action or rule making proceeding each time an "out-of-service" radio frequency assignment was requested.

Private Radio—2—*Title:* Amendment of Part 83 to provide a program and schedule of dates for increasing the required output power of transmitters where vertical antennas are employed aboard compulsorily fitted MF radiotelegraph ships. *Summary:* The Commission will consider the termination, without action, of the proceedings in this matter. The regulatory action rearding the vertical antenna may be postponed until an inspection is made of the individual antennas aboard ship.

Private Radio—3—*Title:* Sixth Notice of Inquiry concerning proposed recommendations to the Safety of Life at Sea Convention by the Intergovernmental Maritime Consultative Organization (IMCO). *Summary:* The FCC will consider whether to adopt a Sixth Notice of Inquiry regarding proposed recommended amendments to Chapter IV of the Safety of Life at Sea Convention, 1974, in reference to VHF Radiotelephone installations. Also included in the Notice of Inquiry are recommended Requirements of the Future Global Maritime Distress and Safety System. The comments received on these items will be used to aid the members of the United States Delegation to prepare for future IMCO Radiocommuncations Subcommittee meetings. The Commission is represented on the Delegation.

Private Radio—4—*Title:* Public coast radiotelegraph (Class I) station applications at Arcadia, TX. *Summary:* The FCC will consider disposition of two applications regarding service by public coast radiotelegraph Class I stations. One application submitted by ITT World Communications, Inc., seeks to close a station at Arcadia, TX; and the other application requests authority to operate a new station at the same location.

Private Radio—5—*Title:* Petition to Revoke the Special Emergency Radio Service authorization of John S. Landes, M.D., for radio station KXQ-858. Petition to Deny the

Application for renewal of the license for radio station KXQ-858. *Summary:* On April 4, 1980, the Commission authorized denial of Dr. John S. Landes' renewal application for his cooperatively shared Special Emergency Radio station. Dr. Landes now seeks reconsideration of or other relief from that action. The following petitions are before the Commission: Petition for Reconsideration, Motion to Stay, Motion for Declaratory Ruling on Alternative Plan of Compliance, and Request for Waiver of the Commission's Docket 18921 Interim Policy Regarding Third Party Provision of "Packaged Services."

Common Carrier—1—*Title:* In re American Telephone and Telegraph Company. Charges for Private Line Services Revisions of Tariff F.C.C. Nos. 260, 264, and 266 Filed in Tr. Nos. 12546, 12716, and 12927 (Series 2000/3000); Docket No. 20814. Charges for Private Line Services Revisions of Tariff F.C.C. No. 260, Filed in Tr. No. 12547 (Series 5000) *Summary:* The Commission will consider petitions for reconsideration of its Final Decision in this proceeding. 74 FCC 2d 1 (1979).

Common Carrier—2—*Title:* CC Docket No. 79-105 Accounting for Station connection Costs, Sales of Terminal Equipment and Other Related Items. *Summary:* The Commission will consider the Staff's proposal to phase-in the change in accounting for station connections. This matter was last before the Commission January 29, 1981. The accounting for sales of terminal equipment and other related items were discussed and adopted by the Commission on November 6, 1980.

Common Carrier—3—*Title:* In the Matter of Deregulation of Customer Premises Inside Wiring, CC Docket No. 79-105. *Summary:* The Commission will consider whether to issue a Further Notice of Proposed Rulemaking in this docket designed to further its objective of assuring that the cost of inside wiring is charged to the cost causative customer through the detariffing of inside wiring. The Further Notice would also seek comments on methods to ensure that the provision of inside wiring is not cross-subsidized by regulated carriers.

Common Carrier—4—*Title:* A. F & L Telephone. *Summary:* FCC considers petitions for reconsideration regarding application to renew license for DPLMRS Station KCC480 in Leominster, Massachusetts, operating on frequencies 152.21 and 454.025 MHz. It also considers petition for reconsideration regarding acceptance for filing of a DPLMRS application from Rivers Associates, Inc. requesting frequency 454.025 MHz in Fitchburg, Massachusetts.

Common Carrier—5—*Title:* Application for Review of Bureau action in Northern Television, Inc. v. RCA Alaska Communications, Inc. (File No. TS 7-77). *Summary:* The Commission will consider an application for review of the action taken under delegated authority in this formal complaint proceeding.

Common Carrier—6—*Title:* U.P. TV Systems, Inc. v. American Microwave & Communications, Inc., File No. TS 6-78. *Summary:* TV Systems, a television translator licensee, has filed a formal complaint in which it alleges it is being unlawfully discriminated against by not being able to have rates similar to those available to its cable system competitor for an apparently comparable service, i.e., the delivery of a distant televisions signal from the same point over the same system to the same point. Microwave has sought to defer answer on the absence of policy guidelines to be developed in pending rulemaking proceeding. The Chief, Common Carrier Bureau denied the motion to defer and Microwave's subsequent application for review. The issue raised by Microwave's Petition for Reconsideration is whether the actions of the Chief, Common Carrier Bureau were appropriate.

Common Carrier—7—*Title:* MCI Services Corp. v. Amercian Telephone and Telegraph Co. et al. (File No. TS 16-76). *Summary:* The Commission will consider a formal complaint filed by MCI Services and a Petition for Declaratory Ruling filed by AT&T. Both deal with interconnection between a "stand-alone" switching system and the public switched telephone network.

Common Carrier—8—*Title:* Complaint by Western Union Telegraph Company against Wiltek, Inc. (File No. TS-4-75). *Summary:* The Commission will consider whether the provision of switching without transmission facilities (i.e., "stand-alone" switching), is subject to common carrier regulation under title II.

Common Carrier—9—*Title:* Petition of Microband Pacific Corporation & Microband Corporation of America & an informal request of Theta Cable of California for reconsideration of the Commission's Memorandum Opinion & Order granting RadioCall Corporation's application to construct a new MDS station at San Pedro, California. *Summary:* In its Memorandum Opinion & Order, *RadioCall Corporation,* 77 FCC 2d (1980) the Commission granted RadioCall's application to construct a new MDS station at San Pedro, CA, & in reaching its decision established interim standards for determining the scope of protection to be afforded to existing MDS station from co-channel interference caused by subsequently constructed stations. The petitioners are requesting the Commission to reconsider its action on the grounds that its decision constituted a reversal of past policies without explanation; that it will result in irreparable harm to the public as well as to existing carriers; & that it violated the petitioners' rights to due process.

Common Carrier—10—*Title:* ITT World Communications, Inc.'s Petition for Stay of Further Activities Pending Reconsideration and Clarification of the hearing into its required rate of return, CC Docket 80-633, and the investigation into its rate base and expenses, ENF-80-6. *Summary:* ITT World Communications Inc. has requested that the Commission stay further activities in the rate of return hearing and rate base and expense investigation, asserting generally that the Commission might restructure the proceedings on reconsideration.

Cable Televisions—1—"Petition for Reconsideration" (CSR-1338) filed December 1, 1980, by Thomas Television, Inc. Thomas Television, Inc., licensee of Station WATR-TV (NBC, Channel 20), Waterbury, Connecticut, requests reconsideration of the Commission's decision in *Waterbury Community Antenna, Inc.* (Waterbury, Connecticut), FCC 80-626, —— FCC 2d —— (1980). The petition is opposed by Teleprompter Connecticut CATV Corp. and by New Milford Cablevision Company, operators of cable television systems serving Danbury and New Milford, Connecticut, respectively.

Assignment and Transfer—1—*Title:* Applications for assignment of license of WCMC-TV, Channel 40, Wildwood, New Jersey, from Jersey Cape Broadcasting Corporation to S. Jersey Broadcasting Corporation and for a major change in facilities; a petition to deny both applications filed jointly by Atlantic City Television Corporation and Maria Sherwood. *Summary:* The Commission will consider these applications and the petition which alleges issues regarding de facto reallocation of Channel 40 from Wildwood to Atlantic City, New Jersey; main studio location; one-to-a-market showing; financial qualifications; character qualifications; and adverse economic impact.

Televisions—1—*Title:* Applications of Waterman Broadcasting Corporation of Texas (WBBH-TV, Fort Myers, Florida) and Gainesville Television, Inc. (WCJB (TV), Gainesville, Florida) for changes in facilities. *Summary:* Both applicants propose changes in existing facilities that, if approved, would create a 14.3 mile short-spacing to each other. The applicants, acknowledging the short-spacing, have requested that the Commission waive the short-spacing and grant their joint request for simultaneous grant of the applications.

Broadcast—1—*Title: Notice of Proposed Rulemaking* in BC Docket No. 80-244 proposing amendment of Section 73.99 of the Commission's Rules. *Summary:* This proceeding proposes to amend Section 73.99(b)(1) of the Rules to permit certain Class II stations to commence presunrise operation at 6 a.m., local time.

Complaints and Compliance—1—*Title:* Application for Review, filed April 2, 1980 by the James Robison Evangelistic Association. *Summary:* The Commission considers the James Robison Evangelistic Association's Application for Review of a Broadcast Bureau ruling which stated that the licensee of WFAA-TV, Dallas, Texas acted reasonably and entirely within its discretion in terminating Mr. Robison's program. In the Application for Review, the Association contends that a discussion of homosexuality on a specific James Robison program did not constitute a discussion of a controversial issue of public importance, and that the licensee's cancellation of the Robison program was unreasonable. The Association also claims that the licensee's policy of precluding discussion of controversial issues from religious programming is unreasonable and

inconsistent with its obligations under the Fairness Doctrine. In addition, the Association contends that if the licensee's actions are deemed reasonable by the Commission, then the Fairness Doctrine has an unconstitutional, chilling effect on religious broadcasting. The Commission must decide whether to grant the Application or affirm the Broadcast Bureau.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: February 18, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-0297-81 Filed 2-20-81; 2:19 pm]

BILLING CODE 6712-01-M

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10 a.m., Friday, February 27, 1981.

PLACE: 1700 G Street, NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

MATTERS TO BE CONSIDERED:

Extension of Time to Establish a Branch Office—Lincoln Federal Saving & Loan Association, Westfield, New Jersey.
Change of Name—First Federal Savings & Loan Association of New Castle County, Wilmington, Delaware
Branch Office Application—First Piedmont Federal Savings & Loan Association, Gaffney, South Carolina
Branch Office Application—Bell Federal Savings & Loan Association of Bellevue, Pittsburgh, Pennsylvania
Application for Bank Membership—Northwest Bank For Savings, Winstead, Connecticut
Branch Office Application—First Federal Savings & Loan Association of Anderson, Anderson, South Carolina
Request for Commitment to Insure Accounts—Grand Savings & Loan Association, Jay, Oklahoma (New Stock Association)
Application for Merger—Security Federal Savings & Loan Association of Oklahoma City, Oklahoma City, Oklahoma *into* Sooner Federal Savings & Loan Association, Tulsa, Oklahoma
Request for Commitment of Insurance of Accounts—(Proposed) Sentry Savings & Loan Association, Stamford, Connecticut
Conversion to Federal Association, Merger and Retention of Facilities—Peoples Savings & Loan Association, Joliet, Illinois *into* Bloomington Federal Savings & Loan Association, Bloomington, Illinois
Adjustable Rate Mortgage Proposal 452.

February 20, 1981.

[S-0291-81 Filed 2-20-81; 10:37 am]

BILLING CODE 6720-01-M

4

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 12184, February 12, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., February 13, 1981.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

2. Docket No. 80-22: International Paper Company v. Seatrain Pacific Services, S.A., et al.—Court Enforcement of Administrative Law Judge Subpoenas.

[S-0289-81 Filed 2-20-81; 9:55 am]

BILLING CODE 6730-01-M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

February 18, 1981.

TIME AND DATE: 10 a.m., Wednesday, February 25, 1981.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Lone Star Steel Company, CENT 79-403-M. (Petition for Discretionary Review; issues include interpretation and application of 30 CFR 55.9-2.)

2. United Castle Coal Company, VA 79-141-D. (Issues include scope of right to refuse to work under section 105(c) of the 1977 Mine Act and whether that section was violated in circumstances of this case.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-0295-81 Filed 2-20-81; 1:55 p.m.]

BILLING CODE 6820-12-M

6

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, March 4, 1981.

PLACE: Board hearing room, eighth floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Ratification of Board actions taken by notation voting during the month of February, 1981.

(2) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary; Tel. (202) 523-5920.

Dated: February 20, 1981.

[S-0299-81 Filed 2-20-81; 3:30 pm]

BILLING CODE 7550-01-M

7

[NM-81-6]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, March 3, 1981.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report*—Collision of U.S. Tugboat *Brazos* with Bermudan Bulk Carrier *Fort Calgary*, Houston Ship Channel, August 7, 1980, and *Recommendations* to the U.S. Coast Guard.

2. *Aircraft Accident Report*—Eagle Commuter Airlines, Inc., Piper PA-31-350 Navajo Chieftain, N59932, Houston, Texas, March 21, 1980.

3. *Railroad Accident Report*—Side Collision of Norfolk and Western Railroad Company's Train No. 86 with Extra 1589 West near Welch, West Virginia, September 6, 1980, and *Recommendation* to the Norfolk and Western Railway Company.

4. *Proposed Special Study*—Large Transport Category Aircraft Cabin Safety.

CONTACT PERSON FOR MORE INFORMATION:
Sharon Flemming 202-462-6022.

February 20, 1981.

[S-0293-81 Filed 2-20-81; 1:06 p.m.]

BILLING CODE 4910-58-M

8

NUCLEAR REGULATORY COMMISSION.

DATE: Week of February 23 (changes).

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Monday, February 23 (changes):

2 p.m.—Briefing on Significant Enforcement Action (closed—Exemption 5, previously announced for February 17, but delayed)

Wednesday, February 25:

10 a.m.—Discussion of Application of the hearing process to Pending Proceedings (closed—Exemption 10)

2 p.m. Discussion of Management-Organization and Internal Personnel Matters (closed—Exemptions 2, 6, Previously announced for Monday, February 23)

Thursday, February 26:

2 p.m.—Briefing on Nuclear Reactor Regulation Licensing Schedules (public meeting)

Friday, February 27:

2 p.m.

1. Affirmation/Discussion Session (approx. 30 minutes, public meeting)

Affirmation and/or Discussion and Vote:

a. Final Amendments to 10 CFR Part 20 on Disposal of Certain H-3 & C-14 Wastes (Tentative)
b. Proposed Rule Changes to Implement the Commission's Delegation of OL Antitrust Determination to Directors, NRR & NMSS
c. Review of ALAB-618—LaCrosse
d. GPU Federal Tort Claim Procedures

2. Discussion of Policy, Planning and Program Guidance for fiscal year 1983-87 (public meeting)

ADDITIONAL INFORMATION: By vote of 4-0 on February 18, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107a of the Commission's Rules that Commission business required that the affirmation of FRN—Suspension of Procedural Assistance Program, held that day, be held on less than one week's notice to the Public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

Walter Magee,

Office of the Secretary.

February 18, 1981.

[S-0294-81 Filed 2-20-81; 1:10 pm]

BILLING CODE 7090-01-M

9

POSTAL SERVICE.

(Board of Governors)

Notice of Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 10:00 a.m. on Monday, March 2, and at 9:00 a.m. on Tuesday, March 3, 1981, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260. Except as indicated in the following paragraphs, the meetings are open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

On February 4, 1981, the Board of Governors voted to close to public observation portions of its next meeting. Each of the members of the Board voted in favor of closing the meeting on March 2, which is expected to be attended by the following persons: Governors Hardesty, Ching, Babcock, Camp, Hughes, Hyde, Jenkins, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary of the Board Cox; Counsel to the Governors Califano; and Senior Assistant Postmaster General Finch.

The meeting to be closed is to involve a discussion of the general rate case (Commission Docket No. R80-1).

Agenda

Monday Session (closed)

Discussion of General Rate Case (Commission Docket No. R80-1).

(The Board will review the Opinion and Recommended Decision of the Postal Rate Commission captioned "Postal Rate and Fee Changes, 1980", which was issued on February 19, 1981 (Commission Docket No. R80-1). If the Governors do not reach a decision during this session, they are expected to resume consideration of the rate case in closed session on Tuesday, March 3.)

Tuesday Session (open)

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General: (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Report on Testimony to Legislative Committees: (Mr. Horgan, Assistant Postmaster General, Government Relations Department, will report on recent and anticipated Postal Service testimony before the cognizant Congressional Committees in the light of the requirement encacted by the Postal Reorganization Act Amendments of 1976 that the Postal Service should appear by not later than March 15 of each year before these committees "the submit information which any such committee considers necessary to determine the amount of funds to be appropriated for the operation of the Postal Service, and to present testimony and respond to questions with respect to [the Postal Service's budget and Annual Comprehensive Statement].")
4. Report on Law Department: (Mr. Cox, General Counsel, will brief the Board on developments in the Law Department.)
5. Rate Incentives for Expanded ZIP Code: (Mr. Finch, Senior Assistant Postmaster General, Finance Group, will report on management plans for a filing with the Postal Rate Commission for reduced rates for mail which includes for additional digits in the ZIP Code in the address.)
6. Report of the Committee on Budget, Finance and Compensation: (Ms. Hughes will advise the Board of the Committee's review of compensation of senior Postal Service officials.)
7. Report of the Committee on Corporate Responsibility: (Mr. Ching will give the Board a preliminary report on the Committee's review of the status of women, the handicapped, and minorities in the Postal Career Executive Service.

Louis A. Cox,

Secretary.

[S-0292 Filed 2-20-81; 10:43 am]

BILLING CODE 7710-12-M

10

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 February 23, 1981, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Tuesday, February 24, 1981 at 10:00 a.m., immediately followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Friedman, and Thomas determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, February 24, 1981, at 10:00 a.m., will be:

1. Consideration of whether to approve proposed rule changes filed by the New York Stock Exchange, Inc. and the American Stock Exchange, Inc. to make permanent their respective rules regarding Registered Competitive Market Makers ("RCMMs") and

Registered Equity Market Makers ("REMMs") and whether to adopt simultaneously a rule pursuant to Section 11(a)(1)(H) exempting RCMMs and REMMs from the proprietary trading prohibition of Section 11(a) of the Securities Exchange Act of 1934. For further information, please contact Stuart Strauss at (202) 272–2413.

2. Consideration of whether to approve a proposed rule change by the Chicago Board Options Exchange, Incorporated concerning a market for trading standardized options on Government National Morgage Association pass-through securities. For further information, please contact Michael Lefever at (202) 272–3117.

3. Consideration of whether to issue a release proposing for comment proposed amendments to Rule 11Ac1–1 under the Securities Exchange Act of 1934 which, if adopted, would permit market centers, under certain specified circumstances, to disseminate quotations on a voluntary, rather than mandatory, basis. For further information, please contact Bruce beatt at (202) 272–288.

4. Consideration of whether to issue an information release announcing the current status of Reserve Recognition Accounting with respect to its ultimate implementation as a primary method of accounting. The Commission will also consider whether to support a proposed Financial Accounting Standards Board project to develop a comperhensive package of disclosures for oil and gas producers. For further information, please contact James D. Hall at (202) 272–2133.

5. Consideration of whether to grant the FOIA appeal of Stephen Aug of The Washington Star, for certain materials concerning the Commission's implementcation of its Conduct Regulation pertaining to reimbursement of travel and subsistence expenses and that the Commission waive its copying fees with respect thereto. For further information, please contact Anne C. Flannery at (202) 272–2454.

6. Consideration of whether to grant the request for a waiver of certain provisions of the Commission's Conduct Regulation in connection with outside employment of Steven E. Levy, currently the Director of the Directorate of Economic and Policy Analysis. For further information, please contact Myrna Siegel at (202) 272–2430.

7. Consideration of whether to adopt amendments to Securities Exchange Act Rule 11b–1 to eliminate outdated provisions regarding rule changes and to clarify the rule's application to options specialists, as well as stock specialists, on national securities exchanges. For further information, please contact Susan Wilk at (202) 272–2841.

8. Consideration of whether to approve an application filed by American Birthright Trust and Tax-Managed Fund for Utility Shares, registered under the Investment Company Act of 1940 (the "Act") as open-end, diversified, management investment companies, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Applicant's from certain provisions of Section 16(a) of the Act until April 30, 1981. For futher information, please contact Glen a. Payne at (202) 272–3015.

The subject matter of the closed meeting scheduled for Tuesday, February 24, 1981, immediately following the 10:00 a.m. open meeting, will be:

Formal order of investigation.
Settlement of injunctive action.
Settlement of administrative proceeding of an enforcement nature.
Regulatory matter bearing enforcement implications.

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 Lowsenstein at (202) 272–2092.

February 19, 1981.

[S-0290-80 Filed 2-20-81; 10:24 am]

BILLING CODE 8010-01-M

11

SECURITIES AND EXCHANGE COMMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: to be published.

STATUS: Open/closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, February 11, 1981.

CHANGES IN THE MEETING: Deletion/ additional item. The following item was not considered at an open meeting scheduled for Thursday, February 19, 1981, at 10:00 a.m.:

Consideration of whether to adopt amendments to Securities Exchange Act Rule 11b–1 to eliminate outdated provisions regarding rule changes and to clarify the rule's application to options specialists, as well as stock specialists, on national securities exchanges. For further information, please contact Susan Wilk at (202) 272–2841.

The following item was considered at a closed meeting scheduled for Thursday, February 19, 1981, following the 10:00 a.m. open meeting.

Regulatory matter bearing enforcement implications.

Chairman Williams and Commissioners Loomis, Evans, Friedman, and Thomas determined that Commission business required the above changes and that no earlier notice thereof was possible.

At time 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: Nancy Wojtas at (202) 272–2178.

February 20, 1981.

[S-0298-81 Filed 2-20-81; 3:17 pm]

BILLING CODE 8010-01-M

federal register

Tuesday
February 24, 1981

Part II

Department of Health and Human Services

Office of Human Development Services

New Native American Projects; Availability of Fiscal Year 1981 Financial Assistance

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement Number 13612-812]

New Native American Projects; Availability of FY 1981 Financial Assistance

AGENCY: Office of Human Development Services, DHHS.

SUBJECT: Announcement of Availability of fiscal year 1981 financial assistance for new Native American projects.

SUMMARY: The Administration for Native Americans announces that applications are being accepted for financial assistance under Section 803 of the Native American Programs Act of 1974, P.L. 93-644, as amended. Regulations covering this program are published in the *Code of Federal Regulations* in 45 CFR Part 1336.

DATE: Closing date for receipt of all applications under this program announcement is May 11, 1981.

Program Purpose

The Native American Program serves American Indians, Hawaiian Natives and Alaskan Natives to promote the goal of social and economic self-sufficiency. A priority emphasis is on assisting Native American groups establish and maintain the structures and mechanisms needed for planning and the coordination of Federal and non-Federal resources. The efforts relating to Indian and Alaskan Native groups are directed toward supporting the Federal policy of Indian self-determination.

The program and policy initiatives of the Administration for Native Americans are framed around three major objectives aimed at attaining Native American self-sufficiency. These objectives are:

1. *Social Development*—The development of social institutions and Native American leadership in ways that enhance the capacity of Native Americans to influence their social environment, and the services to which they are entitled.

2. *Economic Development*—The realization of the full benefit from Native American resources, both potential and actual. Progress in the area of economic development is perceived as critical to addressing the fundamental causes of the acute and chronic social problems found among Native Americans.

3. *Service Improvement*—The elimination of gaps in services as a result of jurisdictional ambiguities, unclear areas of program responsibility, discrimination, and fragmented program efforts is fundamental to improving the delivery of human services.

The Administration for Native Americans operates on the principle that economic and social development are essentially interrelated concerns in Native American affairs. A correlative to this position is the conclusion that the dramatic social problems found among Native Americans are directly related to economic development.

Program Goal

The goal of this program announcement is to provide financial assistance to reservation Indian tribes, rural, non-reservation tribes and Indian organizations and urban Indian Centers to enable them to create and implement effective social and economic development projects focused on their own individual communities. The implementation of these projects is expected to result in sustained improvement in the social and economic conditions of Indians within the community, as well as in increased effectiveness and efficiency of the Indian tribe or organization in defining and achieving its own economic and social goals.

Program Announcement Objectives for Indian Applicants

For Indian tribes, the objective of the program announcement is to support projects which strengthen the executive functions and institutions or tribal governing bodies in order to ensure the development of systems needed for overall social development, economic progress, and improved service delivery. Examples of areas on which emphasis might be placed include building and/or strengthening community and governing institutions in such areas as long-range planning for specific initiatives designed to enhance a particular aspect of the community's social, economic and political development, increasing the tribe's capability for effectively exercising executive, judicial and legislative authorities, or developing a system to provide services which are not otherwise available to residents of the service area. Projects are not limited to those areas listed above.

For private, non-profit Indian organizations, tThe objective of the program announcement is to support projects which enable multi-purpose, non-profit Indian community organizations to undertake programs and pursue strategies which promote the social and economic self-sufficiency of American Indians as individuals and as a community. Empasis might be placed on, but is not limited to, projects which build and/or strengthen the administrative and management capacity of the applicant organization to enable that organization to operate as a more viable human service delivery authority at the local level; design and establish community systems which will bring about increased community involvement, to facilitate accessing specific social services and obtaining funding for other projects in cooperation with existing public and private agencies.

The results expected from these efforts is the establishment of Native American human service centers for linking and accessing existing human services and establishing a coherent service network to meet the needs of the local Indian community. The human service projects may include cross-cutting direct services such as outreach, referral and transportation. However, any direct services provided using ANA funds must be services that are not available from other public service agencies. Applicants are encouraged to consider using ANA funds as a means of mobilizing other resources for operating human service programs. This may include for example, obtaining a license from the State to provide services (e.g., child welfare services, day care services, etc.) and/or securing a purchase of service contract from the State Title XX Agency for services available under Title XX of the Social Security Act.

ANA is interested in funding projects which will result in benefits to the community which extend beyond the project period. The projects developed by the applicant must relate to clearly identified community needs and must be a priority of the applicant tribe/organization. The application is expected to reflect significant community involvement and support in the development of project goals, and ensure continuing community input in project implementation. The projects to be funded are expected to be self-sustaining or completed at the end of the project period.

If project funding is requested for more than one year, the second and third years' objectives must relate to those proposed for the preceding year. All objectives for a two- or three-year project period must be in support of specified project goals.

The applicant should also identify by source, purpose and amount, other Federal and non-Federal resources and

show how these resources will be coordinated with the proposed project.

It is the policy of ANA to make training and technical assistance (T/TA) available to each of its grantees. This support is provided over and above the regular grant award and is delivered, usually on site, by the staff or consultants of the ANA T/TA contractor. All applications should, therefore, include a plan specifying the training and technical assistance which will be necessary to support the proposed project objectives. The plan must provide (T/TA) time frames which correspond appropriately to the time frames of the project activities. Information regarding purpose, task, types of assistance needed, and number of days needed should be included.

Applications must include a section on how the grantee intends to monitor the implementation and progress of the proposed project.

Applicants who wish clarification or further explanation of this program announcement should call Ms. Janice B. Phalen (202–245–7730) at ANA in Washington, D.C. Urban applicants should contact the ANA Program Specialists in the ten Regional Offices of HHS (their names and addresses are contained in the grant application kit).

Eligible Applicants

The governing body of tribes, private non-profit Indian organizations and Indian consortia are eligible to apply if they are not presently receiving ANA funding. Current grantees, individual members of inter-tribal councils or consortia currently funded by ANA, organizations serving communities already being served by an ANA grantee, Native Hawaiian organizations and Alaskan Native villages or organizations are not eligible to apply for grants under this program announcement. Also eligible to apply are Coharie Intra-Tribal Council, Haliwa-Saponi Tribe, Waccamaw-Siouan Development Association, Clifton-Choctaw Reservation, Creek Nation East of the Mississippi, Powhatan-Renape Nation, and Huron Potawatomi, Inc.

For the purpose of this program announcement, the applicant organization or Indian tribe must ensure a minimum service population of 350. Indian tribes or organizations which have a service population of less than 350 might wish to consider joining with other small groups to submit a single application.

Available Funds

ANA expects to award $600,000 in Fiscal Year 1981 for new projects under this program. It is anticipated that ten (10) grant awards will be made with a range of $40,000 to $70,000 per award. The budget period for each grant award will be twelve (12) months. The project period for each grant may be up to three (3) years. Refunding on a non-competitive basis after the first year will depend upon the grantee's satisfactory progress, the availability of funds, and the grantee's compliance with the Native American Programs Regulations.

Grantee Share of Project

Grantees must provide up to 20% of the approved cost of the project. Grantee contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services. The contribution must be project related and must be allowable under the Department's applicable regulations in 45 CFR Part 74, Subparts G and Q.

Under certain circumstances, some or all of the non-Federal share of the project may be waived by ANA. Further explanation is contained in Section 1336.52 of ANA's regulations which will be provided in the application kit.

The Application Process

Availability of application forms. In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and the manner prescribed by ANA. An application kit containing the necessary forms as well as supplemental descriptive project information may be obtained from: Administration for Native Americans, Department of Health and Human Services, Room 5300, North Building, 330 Independence Avenue SW., Washington, D.C. 20201, Ms. Janice B. Phalen, (202) 245–7730, Attention: No. 13612–812.

Application submission. One signed original and two copies of the grant application, including all attachments, must be submitted to the address specified in the application kit.

The application shall be executed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Programs Rules and Regulations.

A–95 notification process. In compliance with the Department of Health and Human Service's implementation of the Office of Management and Budget Circular No. A–95 Revised (procedures at 41 FR 2052, January 13, 1976), applicants, with the exception of Federally recognized tribes, who request grant support must, prior to submission of an application, notify both the State and Areawide Clearinghouses of the intent to apply for Federal financial assistance. Some State and Areawide Clearinghouses provide their own forms for the notification and others use the facesheet (SF–424) of the application form. Applicants should contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A–95 requirements.

Application consideration. The Commissioner (or Regional Administrator (RA) in the case of Regional Office grant awards) determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted for review and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons who are independent of the Administration for Native Americans. The results of the review assist the Commissioner and the RA, as appropriate, in the consideration of competing applications. The Commissioner's and RA's consideration also takes into account the comments of the A–95 Clearinghouse, ANA staff, and other interested parties. The Commissioner and RA make grant awards consistent with the purpose of the Act, the regulations, and the program announcement within the limits of funds available.

After the Commissioner or the RA has reached a decision either to disapprove or to fund a competing grant application, unsuccessful applicants are notified of the decision in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Awarded which sets forth in writing to the recipient the amount of funds awarded the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the amount of recipient participation. It also specifies the total project period for which support is contemplated.

Criteria for Review and Evaluations

Competing grant applications will be reviewed and evaluated against the following criteria:

1. Estimated cost to the government is reasonable considering anticipated results of the project (10 points).

2. Project Design (65 points).

a. Problems to be addressed and demonstrated need for proposed project(s) (10 points).

b. Specified steps for coordination of other Federal and non-Federal resources (10 points).

c. The extent to which the community was involved with the development of the project(s) and will be involved with the project implementation (10 points).

d. A specified training and technical assistance plan which directly corresponds to project goals, objectives and tasks (5 points).

e. Project personnel are or will be qualified, and applicant has or will have adequate facilities (5 points).

f. Monitoring and evaluation plan which details how progress toward meeting the project objectives will be measured (5 points).

g. The project objectives respond to community needs and priorities, which are (1) identified in the description of the tribe/organization and of its community and which are (2) evidenced by results of a recent community profile, if available; or, if not, the applicant has included as one of the first year's objectives the completion of such a community profile (10 points).

h. The project will access or mobilize other resources and there is clear evidence that the project will be completed or self-sustaining at the end of the project period (10 points).

3. Project goals and Objectives (25 points).

a. There are specific, quantifiable (measurable) objectives for the first year (and a clear outline of the objectives for the following two years, if a three-year project period is requested), including a time frame for the specific project objectives for the entire project period (10 points).

b. The proposed activities, if well executed, will achieve project objectives (10 points).

c. Project objectives are identical with or capable of achieving the specific program purpose and goals as described in the program announcement (5 points).

Closing Date for Receipt of Application

The closing date for receipt of all applications under this program announcement is May 11, 1981. Applications may be mailed or hand-delivered. An application will be considered received on time if:

- The application was sent by registered or certified mail not later than May 11, 1981 as evidenced by the U.S. Postal Service, postmark or the original receipt from the U.S. Postal Service;
- The application is received on or before close of business, May 11, 1981 in the OHDS Receiving Office in Washington, D.C.; or
- The application is hand-delivered to the address on the application kit by close of business May 11, 1981. Hand-delivered applications will be accepted daily from 9 a.m. to 5:30 p.m. except Saturdays, Sundays, and Federal holidays. The official time and date of receipt is that registered by the Department of Health and Human Services.

Applications received after the deadline because they were postmarked or hand-delivered too late or addressed incorrectly will not be accepted and will be returned to the applicant without consideration.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: February 3, 1981.

A. David Lester,

Commissioner, Administration for Native Americans.

Approved: February 13, 1981.

Warren Master,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 81-6035 Filed 2-23-81; 8:45 am]

BILLING CODE 4110-92-M

federal register

Tuesday
February 24, 1981

Part III

Department of Health and Human Services

Office of Human Development Services

Native American Status Clarification Resource Mobilization Project; Availability of Fiscal Year 1981 Financial Assistance

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Program Announcement 13612-814]

Native American Status Clarification Resource Mobilization Project; Availability of FY 1981 Financial Assistance

AGENCY: Office of Human Development Services, DHHS.

SUBJECT: Announcement of Availability of Fiscal Year 1981 Financial Assistance for a Native American Status Clarification Resource Mobilization Project.

SUMMARY: The Administration for Native Americans announces that applications are being accepted for financial assistance under Section 803 of the Native American Programs Act of 1974, P.L. 93-644, as amended. Regulations covering this program are published in the *Code of Federal Regulations* in 45 CFR Part 1336.

DATE: Closing date for receipt of all applications under this program announcement is May 11, 1981.

Program Purpose

The purpose of the Native American program is to promote the goal of economic and social self-sufficiency for American Indians.

Program Goal and Objectives

It is the policy of the Administration for Native Americans to encourage the efforts of Indian communities seeking to clarify their legal status. ANA is implementiung this policy in three ways:

(1) By encouraging present grantees to direct their ANA grant resources into status clarification research both within their current service population area and within geographically adjacent areas;

(2) Through issuance of Program Announcement 13612-815, providing a competition for mini-grants to approximately 10 Indian groups for applied research for status clarification; and

(3) By issuance of this Program Announcement, implementing a Status Clarification Resource Mobilization Project.

The goal of the Status Clarification Resource Mobilization Project is to provide resources and mobilize academic research support for Indian tribes and groups that are seeking to clarify their status as Indians and as tribes with their states and/or with the Federal government.

The principle method presently being utilized by Indian groups for status clarification is the Federal Acknowledgement Project (FAP).

However, there are other alternatives available, some perhaps more appropriate for specific Indian groups to determine the legal status and anthropological characteristics of Indian groups. This may include but is not limited to designation under the Indian Reorganization Act and state recognition. There alternatives require the same basic research as FAP.

The Federal Acknowledgement Project, under the Bureau of Indian Affairs, estabished administrative requirements for the content of petitions for Federal recognition and established the criteria which would be used in the review process by the Federal government. (25 CFR 54).

Applicants for the status clarification resource mobilization project should indicate that their proposed project will achieve, or is capable of achieving all of the following program objectives:

- To implement a resource mobilization plan:

a. to identify and link with Indian tribes and communities appropriate academic professionals to conduct necessary status clarification research under tribal or community control;

b. to raise from private and other non-ANA sources financial and other assistance for such research;

c. to assist tribes and communities in their own status clarification resource mobilization efforts.

- To establish a network among historians, anthropologists, geneologists, lawyers, etc. who are conducting tribal specific, community controlled status clarification research:

a. to facilitate the exchange of information, the analysis of data, and other aspects of such research;

b. to provide quality control and review for both the academic professionals working in the field and the tribal and community leaders overseeing such research.

Applicants who have questions concerning this announcement may call Ms. Jan Phalen at the Administration for Native Americans, (202) 245-7730 or Mr. Merv Tano, ANA, (202) 245-7714.

Eligible Applicants

Any regional or national private, non-profit Indian organization may apply for assistance under this announcement.

Available Funds

The Administration for Native Americans expects to award one (1) grant for $150,000 for this project. The budget period and project period for the grant will be seventeen (17) months.

Grantee Share of Project

Grantees must provide up to 20% of the approved cost of the project. Grantee contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services. The contribution must be allowable under the Department's applicable regulations in 45 CFR part 74, subparts G and Q.

Under certain circumstances, some or all of the non-Federal share of the project may be waived by ANA. Further explanation is contained in Section 1336.52 of ANA's regulations (45 CFR 1336).

The Application Process

Availability of application forms. In an order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and the manner prescribed by ANA. An application kit containing the necessary forms as well as supplemental descriptive project information may be obtained from: Ms. Janice B. Phalen, Department of Health and Human Services, Administration for Native Americans, Room 5300, North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 245-7730, Attention: No. 13612-814.

Application submission. One signed original and two copies of the grant application, including all attachements, must be submitted to the address specified in the application kit.

The application shall be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Programs Rules and Regulations.

A-95 notification process. In compliance with the Department of Health and Human Service's implementation of the Office of Management and Budget Circular No. A-95 Revised (procedures at 41 FR 2052, January 13, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and Areawide Clearinghouses. The State and Areawide Clearinghouses may provide their own forms for the project notification or the applicant can use the facesheet (SF-424) of the application. Applicants should contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Application consideration. The Commissioner determines the final action to be taken with respect to each

grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted for review and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Admininistration for Native Americans. The results of the review assist the Commissioner in the consideration of competing applications. The Commissioner's consideration also takes into account the comments of the A-95 Clearinghouse, the ANA staff, and other interested parties. The Comissioner makes grant awards consistent with the purpose of the Act, the regulations, and the program announcement within the limits of funds available.

After the Commissioner has reached a decision either to disapprove or to fund a competing grant application, unsuccessful applicants are notified of the decision in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Awarded which sets forth, in writing, to the recipient the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the amount of recipient participation. It also specifies the total project period for which support is contemplated.

Criteria for Review and Evaluation

Competing grant applications will be reviewed and evaluated against the following criteria:

(1) Estimated cost to the government is reasonable considering anticipated results. (10.)

(2) Demonstrated ability of the applicant to mobilize financial resources. (20 points)

(3) Demonstrated ability of the applicant to have credibility with both recognized and non-recognized Indian groups. (5 points)

(4) Evidence of applicant knowledge and experience in the field of the Federal Acknowledgement Project and other status clarification strategies. (10 points)

(5) Evidence of support from Indian groups seeking status clarification. (5 points)

(6) That the project objectives are capable of achieving the specific program objectives defined in this announcement. (20 points)

(7) That the proposed activities (procedures) of the work program, if well executed, will achieve the intended results. (10 points)

(8) That project personnel are or will be well qualified, and that the applicant has or will have adequate facilities and resources. (10 points)

(9) Evidence that the applicant has the capability and experience to effectively operate a project that is national in scope. (10 points)

Closing Date for Receipt of Application

The closing date for receipt of all applications under this program announcement is May 11, 1981. Applications may be mailed or hand delivered. An application will be considered on time if:

- The application was sent by registered or certified mail not later than May 11, 1981 as evidence by the U.S. Postal Services;
- The application is received on or before close of business May 11, 1981 in the OHDS Receiving Office in Washington, D.C.; or
- The application is hand-delivered to the address on the application kit by close of business May 11, 1981. Hand-delivered applications will be accepted daily from 9 a.m. to 5:30 p.m. except Saturdays, Sundays, and Federal holidays. The official time and date of receipt is that registered by the Department of Health and Human Services.

Applications received after the deadline because they were postmarked or hand-delivered too late or addressed incorrectly will not be accepted and will be returned to the applicant without consideration.

(Catalog of Federal Domestic Assistance Program No. 13.612 Native American Programs)

Dated: February 3, 1981.

A. David Lester,

Commissioner, Administration for Native American.

Approved: February 13, 1981.

Acting Assistant Secretary for Human Development Services.

[FR Doc. 81-6036 Filed 2-23-81; 8:45 am]

BILLING CODE 4110-92-M

federal register

Tuesday
February 24, 1981

Part IV

Department of Health and Human Services

Office of Human Development Services

Native American Status Clarification Projects; Availability of Fiscal Year 1981 Financial Assistance

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Program Announcement 13612-815]

Native American Status Clarification Projects; Availability of Fiscal Year 1981 Financial Assistance

AGENCY: Office of Human Development Services, DHHS.

SUBJECT: Announcement of Availability of Fiscal Year 1981 Financial Assistance for Native American Status Clarification Projects.

SUMMARY: The Administration for Native Americans announces that applications are being accepted for financial assistance under Section 803 of the Native American Programs Act of 1974, Pub. L. 93-644, as amended. Regulations covering this program are published in the *Code of Federal Regulations* in 45 CFR Part 1336.

DATE: Closing date for receipt of all applications under this program announcement is May 11, 1981.

Program Purpose

The purpose of the Native American Program is to promote the goal of economic and social self-sufficiency for Native Americans.

Program Goal and Objectives

The goal of this program announcement is to provide financial assistance to Indian groups for community applied research to clarify their status as Indians and as tribes within their States and/or with the Federal government. Under the Social and Economic Development Strategies, it is the policy of the Administration for Native Americans (ANA) to encourage the efforts of Indian groups to clarify their status as Indians and as tribes under the Constitution. ANA is implementing this policy in three ways:

(1) Encouragement of present ANA grantees to direct their ANA grant resources into status clarification research, both within their current service population area and within geographically adjacent areas;

(2) The issuance of Progam Announcement 13612-814, a competition for a Status Clarification Resource Mobilization Project to mobilize academic and financial resources for Indian groups for status clarification research; and

(3) The issuance of this program announcement for "mini-grants" to Indian groups for status clarification.

The principal method presently being utilized by Indian groups for status clarification is the Federal Acknowledgement Project (FAP).

However, there are other strategies available, some perhaps more appropriate, to determine the legal and sociological status of Indian groups; for example, designation under the Indian Reorganization Act as a half blood community or State recognition. FAP guidelines provide a framework within which such research can best be accomplished.

Applications for projects should indicate that the proposed project will achieve or is capable of achieving the following program objectives:

- The employment of an academic and/or legal professional(s) to undertake or assist in the community specific research necessary for status clarification.
- The completion of certain defined interrelated phases of the research necessary for an Indian group to clarify its status.
- The development of a plan for completion of community specific research for status clarification remaining at the end of the project period.

ANA is interested in funding projects to Indian groups who have indicated a strong commitment to actively mobilize other resources, (financial, academic, human) to participate in a status clarification project.

ANA encourages present grantees who are applying for this program announcement additionally to redirect current ANA grant resources into status clarification efforts, if possible.

Applicants must identify by source and amount other Federal and non-Federal resources available to the applicant for status clarification and indicate how these resources will be coordinated to accomplish the proposed project.

The applicant is encouraged to have an academic professional involved at the beginning of the development of the application to ensure that appropriate research processes are applied to the project objectives development.

The applicant is discouraged from utilizing ANA funds for costs to recruit researchers. ANA grant funds should be expended directly for the research initiative.

Applicants who wish further clarification or explanation of this announcement should call Ms. Jan Phalen, Administration for Native Americans (202) 245-7730, or Mr. Merv Tano, ANA, (202) 245-7714.

Eligible Applicants

Any non-recognized or terminated tribe which is incorporated as a non-profit organization, residing on or near their reservation, former reservation or traditional homeland is eligible to apply for financial assistance under this program announcement.

ANA is interested in funding Indian groups which believe they should be acknowledged as an Indian tribe under the Federal Acknowledgement Project or believe they have a right to other status recognition such as designation under the Indian Reorganization Act, State recognition or other legal designation.

Available Funds

The Administration for Native Amerioans expects to award $100,000 in Fiscal Year 1981 for new projects under this program announcement. It is anticipated that up to 10 grant awards will be made, ranging between $10,000 to $15,000 per grant. The budget period for each grant award will be twelve [12] months. The project period for each grant may be up to two (2) years. Beyond the first year, refunding on a non-competitive basis will depend upon the grantee's satisfactory progress, the availability of funds, and the grantee's compliance with the Native American Programs Regulations.

Grantee Share or Project

Grantees must provide up to 20 percent of the approved cost of the project. Grantee contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services. The contributions must be project related and must be allowable under the Department's applicable cost principle published in 45 CFR Part 74, Subparts G and Q.

Under certain circumstances, some or all of the non-Federal share of the project may be waived by ANA. Further explanation is contained in Section 1336.52 of ANA's Regulations, which will be provided in the application kit.

The Application Process

Availability of application forms. In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and the manner prescribed by ANA. An application kit containing the necessary forms as well as supplemental descriptive project information may be obtained from: Administration for Native Americans, Department of Health and Human Services, Room 5300 North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, Ms. Janice B. Phalen, (202) 245-7730, Attention: No. 13612-815.

Application submission. One signed original and two copies of the grant

application, including all attachments, must be submitted to the address specified in the application kit.

The application must be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Programs Rules and Regulations.

A-95 notification process. In compliance with the Department of Health and Human Services, implementation of the Office of Management and Budget Circular No. A-95 Revised (procedures at 41 FR 2052, January 13, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and Areawide Clearinghouses of the intent to apply for Federal Assistance. Some State and Areawide Clearinghouses provide their own forms for the notification and others use the facesheet (SF-424) of the application form. Applicants should contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Application consideration. The Commissioner, ANA, determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted for review and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Native Americans. The results of the review assist the Commissioner in consideration of competing applications. The Commissioner's consideration also takes into account the comments of the A-95 Clearinghouse, the ANA staff, and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Act, the regulations, and the program announcement within the limits of funds available.

After the Commissioner has reached a decision either to disapprove or to fund a competing grant application, unsuccessful applicants are notified of the decision in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Awarded which sets forth in writing to the recipient the amount of funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the amount of recipient participation. It also specifies the total project period for which support is contemplated.

Criteria For Review and Evaluation

Competing grant applications will be reviewed and evaluated against the following criteria:

(1) That the application evidences involvement and participation by an academic or legal professional and that the identity of the author of the application is included with a statement on his or her future connection with the project objectives, if a grant is awarded. (10 points)

(2) That there are letters or material from the academic and/or legal community indicating support for the project objectives, commitment of other academic resources (e.g., university students for additional research, access to resource material, academic review and critique of research), and/or additional descriptive material on the historical and sociological aspects of the tribal community. (10 points)

(3) That the applicant provides a clear description of why it beleives it has a right to status designation either through the Federal Acknowledgment Project criteria or through other status designation criteria. (20 points)

(4) That the description of the project objectives, especially the articulation of the actual research objective, is capable of achieving the specific program objectives defined in this announcement. (20 points)

(5) That the proposed procedures (activities) of the work program, if well executed, will achieve the intended results. (10 points)

(6) That the estimated cost of the government is reasonable considering the anticipated results. (10 points)

(7) That project personnel are or will be well qualified, and that the applicant has or will have adequate facilities and resources. (10 points)

(8) That the applicant has indicated how all present resources will be coordinated with this project and how new resources will be mobilized in the future. (10 points)

Closing Date for Receipt of Application

The closing date for receipt of all applications under this program announcement is May 11, 1981. Applications may be mailed or hand delivered. An application will be considered received on time if:

- The application was sent by registered or certified mail not later than May 11, 1981 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service.
- The application is received on or before close of business, May 11, 1981 in the OHDS Receiving Office in Washington, D.C.; or
- The application is hand-delivered to the address on the application kit by close of business May 11, 1981. Hand-delivered applications will be accepted daily from 9 a.m. to 5:30 p.m. except Saturdays, Sundays, and Federal holidays. The official time and date of receipt is that registered by the Department of Health and Human Services.

Applications received after the deadline because they were postmarked or hand-delivered too late or addressed incorrectly will not be accepted and will be returned to the applicant without consideration.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: February 3, 1981.

A. David Lester,

Commissioner, Administration for Native Americans.

Approved: February 13, 1981.

Warren Master,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 81-6037 Filed 2-23-81; 8:45 am]

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February 24, 1981

Part V

Federal Communications Commission

Deregulation of Radio

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 73

[BC Docket No. 79-219; RM-3099; RM-3273; FCC 81-17]

Deregulation of Radio

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein resolves the issues raised in the Commission's *Notice of Inquiry and Notice of Proposed Rule Making*, released September 27, 1979, in the matter of the deregulation of radio. The Commission is eliminating its current processing guidelines relative to the amounts of non-entertainment programming which commercial radio stations should provide and the number of commercial minutes per hour which they should not exceed. Additionally, the Commission is eliminating its community ascertainment requirements and its program log keeping requirements for commercial radio stations. The action is being taken to reduce the paperwork and other burdens on commercial radio stations without having a substantial adverse impact upon the public interest.

EFFECTIVE DATE: April 3, 1981.

FOR FURTHER INFORMATION CONTACT: Roger D. Holberg, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of Deregulation of Radio, BC Docket No. 79-219, RM-3099, RM-3273. *Report and Order* (Proceeding Terminated).

Adopted: January 14, 1981

Released: February 24, 1981.

By the Commission: Commissioners Ferris, Chairman; and Quello issuing separate statements; Commissioner Washburn approving in part and concurring in part and issuing a statement; Commissioner Fogarty concurring and issuing a statement; Commissioner Brown dissenting and issuing a statement; Commissioner Jones concurring in the result and issuing a statement.

I. Introduction

1. On September 6, 1979, we adopted a *Notice of Inquiry and Notice of Proposed Rule Making* in this proceeding. In that *Notice* we indicated that we were "initiating a proceeding looking toward the substantial deregulation of commercial broadcast radio * * *." Today, having received, and analyzed the numerous comments, and having held panel discussions at which the questions raised by this proceeding were energetically debated, we are prepared to resolve the issues. We believe that our resolution of those issues assures that service in the public interest will continue without unnecessarily burdensome regulations of uniform applicability that fail to take into account local conditions, tastes, or desires.

2. As we stated in the *Notice*, it is our concern that regulation should be kept relevant to technology and an industry that has been characterized from its beginning by rapid and dynamic change. In less than fifty years, broadcast radio has grown from an infancy of 583 stations in 1934 to a maturity of nearly 9000 stations today. Moreover, in the early days of radio, it was essential that a few stations provide a broad general service. Today, however, it has become essential in view of the proliferation of radio stations and other broadcast services that radio licensees specialize to attract an audience so that they may remain financially viable. Consequently, policies that may have been necessary in the early days of radio may not be necessary in an environment where thousands of licensees offer diverse sorts of programming and appeal to all manner of segmented audiences. We believe, therefore, that the Commission is justified in reviewing its regulations in the face of such fundamental changes as have occurred since the dawn of radio regulation in this country. Indeed, failure to do so could constitute less than adequate performance of our regulatory mission.

3. We believe that the course of action which we are taking in this proceeding is warranted under, and consistent with, the public interest standard contained in the Communications Act. It is well settled that this standard was deliberately placed into the Act by Congress so as to provide the Commission with the maximum flexibility in dealing with the ever changing conditions in the field of broadcasting. Moreover, a wide latitude has been provided the Commission to modify its regulations in the face of such changes. We believe that it is entirely consistent with our authority, and our mandate, to consider the changes in broadcasting that have occurred, at an ever accelerating pace, over the past half century, and to adapt our rules and policies to those changes.[1]

II. History of the Proceeding

4. While the Commission has always attempted to assure that its rules and regulations are kept appropriate to a technology and industry that are subject to rapid and fundamental change, this proceeding can be said to have had its genesis in October 1978. At that time we instructed the staff to study the possibility of deregulating radio on either an experimental or general basis and to prepare recommendations. In May 1979, the staff reported to the Commission which requested further study of the matter.

5. At a special Commission meeting on September 6, 1979, we adopted the *Notice of Inquiry and Notice of Proposed Rulemaking* (FCC 79-518) [hereinafter the *Notice*] setting forth the proposals that were the subject of this proceeding.[2] In that *Notice*, we proposed changes to our regulations in four areas as they pertain to commercial radio broadcast stations. The four areas were: the nonentertainment programming guideline; ascertainment; the commercial guidelines; and program log requirements. For each area, we listed a number of options that would be considered ranging all of the way from outright elimination of all current requirements to the retention of current requirements. Comment was also sought on options not specifically listed so long as they pertained to one of the four areas under study. Thereafter staff personnel who participated in the drafting of the *Notice* and personnel from our Consumer Assistance Office conducted a series of five Public Participation Workshops. All seven of the Commissioners participated in these workshops, with one or more Commissioner participating in each. The workshops were held in Boston, Massachusetts; Detroit, Michigan; Houston, Texas; Sacramento, California; and Wheeling, West Virginia. They were intended to alert the public of the existence of this proceeding and to the proposals made in the *Notice*. Additionally, sessions were held to instruct members of the public as to how to find out about other Commission proceedings and how to go about filing comments in rulemaking proceedings.

6. On November 9, 1979, the American Civil Liberties Union and several other groups joined in filing a "Motion for Rescission and Other Procedural Relief" that requested that the Commission rescind the *Notice* or grant other specified relief. The Commission made available for public inspection data which were unavailable when the *Notice* was released, various materials utilized in preparing the *Notice*, and

[1] A more extended discussion of the Commission's legal authority to reconsider its regulations under the public interest standard can be found at paragraphs 58-68 of Appendix E.

[2] That *Notice* was released September 27, 1979, and was published in Volume 44, Number 195 of the **Federal Register** for Friday, October 5, 1979.

published a description of the methodology used in preparing the Tables attached thereto.[3] This was partially in response to the ACLU request; the remainder of that request was denied (FCC 79-869).[4]

7. The NAACP and several other groups and individuals sought the extension of the comment deadline in this proceeding. Originally, comments were due on January 25, 1980, and reply comments were to be filed by April 25, 1980. On January 7, 1980, the Commission released an *Order Extending Time for Filing Comments and Reply Comments* (FCC 80-4). That *Order* extended the filing deadline for comments until March 25, 1980, and for reply comments until June 25, 1980. Although subsequent requests for extensions of the reply comment period were made, on June 23, 1980, the Commission denied those requests (FCC 80-354).

8. On August 7, 1980, the Commission sent out invitations to a number of organizations and governmental agencies to participate in panel discussions relative to the deregulation issues. These invitations went to a cross-section of broadcasters and industry organizations, citizens groups, charitable and religious organizations and Government agencies representing a wide range of interests and views relative to the proceeding. The discussions were held on September 15 and 16, 1980, and are more fully described below. The identity of the participating organizations and their representatives is set forth in Appendix B, *infra*.

9. With the panel discussions over, the record submitted was analyzed. We are now able to resolve the issues confronting us and to take the following actions in the four principal subject areas:

A. *Nonentertainment programming guideline*—We are eliminating the guideline and retaining only a generalized obligation for commercial radio stations to offer programming responsive to public issues. Under certain circumstances, the issues may focus upon those of concern to the station's listenership as opposed to the community as a whole;

B. *Ascertainment*—We are eliminating both the *1971 Ascertainment Primer* and the *Renewal Primer*. New applicants must file programming proposals with their application and licensees seeking renewal are only obligated to determine the issues facing their community. They may do so by any means reasonably calculated to apprise them of the issues;

C. *Commercial Guidelines*—We are eliminating the commercial guidelines leaving it to marketplace forces to determine the appropriate level of commercialization;

D. *Program Logs*—We are eliminating programming logging requirements. The only record of programming that will be required will be an annual listing of five to ten issues that the licensee covered together with examples of programming offered in response thereto. This record must be placed in the public file.

10. We recognize that some of these changes remove the illusory comfort of a specific, quantitative guideline. The Commission was not created solely to provide certainty. Rather, Congress established a mandate for the Commission to act in the public interest. We conceive of that interest to require us to regulate where necessary, to deregulate where warranted, and above all, to assure the maximum service to the public at the lowest cost and with the least amount of regulation and paperwork. The system of broadcasting that was established in this Nation has always relied to the maximum extent on the good faith efforts and discretion of licensees in carrying out their obligations. In taking the actions outlined above we have relieved radio broadcasters of substantial burdens but have also given them added responsibility—the responsibility to determine how best to serve their public without the Commission providing detailed requirements on how to go about doing so. We are confident that they are up to the task before them.

III. The Comments

An Overview of the Comments

11. The Commission received an extraordinary number of comments in this proceeding. For instance, the Commission received approximately 20,029 comments including 3,247 formal and 16,782 informal comments. An additional 2,044 reply comments were filed consisting of 110 formal and 1,934 informal replies. These numbers are an approximation (but not an estimate) due to the fact that some comments may have been counted more than once given the number of personnel involved and the volume of comments received. By way of example, some commenters that filed formal comments also forwarded a copy of their comment to their Congressperson or Senator. Often the legislator forwarded these to the Commission and, when this copy was received, it may have also received consideration as an informal comment (and been counted as such). It would not have been practical, let alone possible, for each filing to be checked against those previously received to prevent such duplication.

12. A breakdown of the comments and replies has also been prepared. While this tally does not reflect the weight given to any individual comment, it does represent a reflection of sentiment among those filing comments. Of the formal comments: 1,415 were construed by the staff to be predominantly in favor of deregulation, 1,807 predominantly opposed, and 25 mixed in their position. The tally of informal comments was quite different. Of these, 654 predominantly favored deregulation, 16,005 were predominantly opposed, with 123 being more mixed in outlook. Virtually any filing received between the end of the initial comment period and the end of the reply comment period was considered to be a reply comment even if it did not specifically reply to a previously filed comment. Of the formal reply comments, 62 were in favor of deregulation, 41 were opposed and 7 were mixed. Of the informal replies, 122 predominantly favored deregulation with 1,812 being predominantly opposed. Of course a large number of comments objected to the proposal while favoring some aspects, or, conversely, favored the proposal while having reservations over some aspects. The above breakdowns only refer to the predominant flavor of each comment. A more detailed breakdown of the comments is contained in Appendix C.

Common Misconceptions in the Comments

13. Several views were expressed in the written comments that we feel merit attention at this point. These views were apparently the result of some misapprehension or misperception regarding the nature of current Commission requirements and proposals made in the *Notice* to alter them. For example, a great deal of concern was expressed that the elimination of the non-entertainment programming guideline would result in the elimination of Commission requirements for the presentation of public service announcements (PSAs), religious programs, "sustaining programming," and "community service programming." The Commission currently has no such requirements. Public service announcements must be logged and our current renewal forms ask applicants to

[3] *Public Notice*, "Release of Additional Material in Radio Deregulation Proceeding (BC Docket No. 79-219)," Report No. 15448, January 11, 1980.

[4] Later, the ACLU and other parties asked the Commission to reform the release date of the Commission's *Order* responding to their "Motion for Rescission and Other Procedural Relief." The Commission denied that request on June 11, 1980. (See, *Memorandum Opinion and Order*, FCC 80-345).

state how many they propose to broadcast on a weekly basis in the coming license term. But there is no requirement for their presentation. In fact, the question of how the Commission can foster the presentation of PSAs has recently been the subject of another proceeding.[5] Similarly, the Commission does not require religious programming; rather, such programming can be counted towards meeting the non-entertainment programming guideline.[6] A station may obtain license renewal without any such programming. Additionally as pointed out in the *Notice*, at paragraph 55, the requirement for the presentation of "sustaining programming" was eliminated in 1960, some twenty years ago.[7] Finally, in this vein, the Commission does not require the broadcast of regular weather reports or school closing announcements. Nor does the Commission have a "community service" programming category or programming guideline.[8] Thus, the Commission is not proposing to modify or to eliminate in this proceeding any such "requirements" as described above.

14. Numerous comments also objected to a perceived attempt by the Commission to deregulate television. By this we are not referring to those comments that feared that radio deregulation would inexorably lead to television deregulation. We concede that reasonable people could differ as to their conclusions in that regard. Rather, what we are referring to are a large number of comments that expressed positions either in favor of, or in opposition to, "our proposal to deregulate television." This proceeding does not contemplate the deregulation of TV in any regard and none of the actions taken herein apply to television.

15. Numerous comments also contended that the Commission is attempting to replace the statutory "public interest" concept with the "marketplace" concept. We believe that this is an erroneous analysis of the proposals made in this proceeding. It is not the public interest standard that we proposed to eliminate. That standard is contained in the Communications Act of 1934, as amended, and could not be changed by us even if we wanted to. That is a job for Congress. Rather, since marketplace solutions can be consistent with public interest concerns, we sought to explore in this proceeding the question of whether or not in the context of radio the public interest can be met through the working of marketplace forces rather than by current Commission regulations. Again, that issue does not contemplate the elimination of the standard, only a debate over what the standard requires and what methods are best suited to meet that standard in the most efficient way and at the least cost to the public. As discussed in the *Notice*, the public interest standard has never been regarded as a static concept and was utilized by Congress in enacting the Communications Act so as to provide the Commission with the maximum flexibility in dealing with a rapidly and dynamically changing technology and industry.[9]

16. Similarly, many commenters feared that the Commission is proposing to eliminate the Fairness Doctrine, the Petition to Deny process, and periodic license renewal for commercial radio stations. Each of these requirements and procedures are mandated by statute[10] and, again, such statutory requirements cannot be modified by the Commission. They simply are not subject to deregulation by the Commission.

The Panel Discussions

17. In addition to the comments, the Commission conducted panel discussions on September 15, and 16, 1980. These were held to provide us with further information on the issues present. Individuals from 17 organizations, companies, radio stations and governmental agencies were invited to appear before us and discuss these issues. These discussions resulted in some 267 pages of testimony.

18. We found this procedure most helpful in focusing our thoughts on several crucial issues and in providing us with further information upon which to base our decision. While there was substantial disagreement among the parties on various issues, we found the procedure helpful in shedding light on may areas of concern to us in a constructive manner.

19. Principally, the presentations made by the panelists tracked faithfully the written comments submitted by their organizations. The transcript of the panel discussions has been made part of the record and is available for inspection. A recitation of the issues raised and arguments made in the course of the discussions will not be made herein except as indicated in the discussion of the written comments. We turn now to a discussion of the actions that we are taking in the four areas under consideration.

IV. The Course of Action Being Taken

Non-Entertainment Programming Guideline

The Proposals

20. The Commission set forth a number of options in the *Notice* for modifying or eliminating the current guideline on the amounts of non-entertainment programming that radio stations should air.[11] The current guidelines call for AM stations to offer 8% non-entertainment programming and for FM stations to offer 6%. Non-entertainment programming for the purposes of meeting the guideline includes news, public affairs, and "all other" non-entertainment programs. These guidelines are currently contained in Section 0.281 of the Commission's Rules which set forth the Commission's delegations of authority to the Broadcast Bureau. What the guidelines mean is that applicants proposing to offer less than the guideline amounts of non-entertainment programming cannot have their application routinely processed by the Bureau under its delegation of authority from the Commission; rather, the application must be brought to the attention of the Commission itself. The guidelines do not mean that a station proposing to offer less non-entertainment programming is absolutely barred from, for instance, renewal of its license. It does mean, however, that its application cannot be routinely processed, that it must be brought to the Commission's attention, and that it may be designated for hearing.

[5] See, *Report and Order*, Airing of Public Service Announcements by Broadcast Licensees, BC Docket 78-251 (FCC 80-557) released October 27, 1980, permitting PSAs to be counted toward meeting nonentertainment programming guidelines for the first time since those guidelines were adopted.

[6] Based upon the data accumulated in preparation for the *Notice*, and subsequently compiled data released on January 11, 1980, most stations appear to meet the total nonentertainment programming guideline even without counting their religious programming. This raises a question as to whether or not the guideline has been responsible for the continued presence of substantial amounts of such programming on radio.

[7] See *En Banc Programming Inquiry*, 44 FCC 2303, (1960) (Programming Statement).

[8] In fact, a request by the United States Catholic Conference, the United Church of Christ, the National Council of Churches of Christ in the U.S.A., and 70 other church communicators for the adoption of a "community service" programming category was denied on September 25, 1980, in BC Docket 78-335.

[9] *National Broadcasting Company* v. *United States*, 319 U.S. 190, 219-20 (1943); *Federal Communications Commission* v. *Pottsville Broadcasting Co.*, 309 U.S. 134, 138 (1940).

[10] See, Sections 315, 309(d) and 307(d) of the Communications Act of 1934, as amended, respectively.

[11] As in all of the areas under consideration in this proceeding, the Commission also indicated that it would consider alternatives not specifically set forth. See, paragraph 269 of the *Notice*.

21. In the *Notice* the Commission listed six options for change in this area. They were:

(1) To remove the Commission from all consideration of the amount of non-entertainment programming furnished by commercial broadcast radio licensees and to leave it to the marketplace to determinme what levels of such programming would be offered;

(2) To relieve individual licensees of any obligation to present non-entertainment programming but, instead, to analyze the amounts of such programming being offered on a marketwide basis with the Commission intervening if the amount of non-entertainment programming being offered in the market as a whole fell below a certain level;

(3) To free licensees from any specific responsibilities with respect to non-entertainment programming (and ascertainment and commerical minutes), but instead to require licensees to show, if challenged upon renewal, that they were serving the public interest. Such a showing could be made with reference to what other services were available in the market;

(4) To impose quantitative programming standards for each non-entertainment programming category either in terms of a minimum number of hours per week that would have to be presented for each category, or a percentage of total programming time that each station would have to devote to each category;

(5) To impose quantitative standards but, instead of setting such standards in terms of hours or percentage of time devoted to each category, to measure the adequacy of the programming on the basis of each station's expenditures thereon. This could take the form of the Commission mandating a certain proportion of revenue or profits that each station would have to reinvest in non-entertainment programming; and

(6) To establish a minimum fixed percentage of local public service programming that would have to be presented which could be met by the broadcast of any of the following, alone or in combination: local news, local public affairs, local public service announcements; community bulletin boards; or any other locally produced non-entertainment programming demonstrably related to serving local community needs. The meeting of this minimum percentage would be a *sine qua non* of license renewals.

22. In the *Notice* we tentatively proposed to eliminate the guideline, placing our reliance upon marketplace forces to assure the continuation of non-entertainment programming. The data which were before the Commission indicated that stations were providing amounts of such programming, and at such times of the broadcast day, as to suggest a listenership desire in the programming that would assure its presence through the working of marketplace forces. Under this option Commission intervention would occur only when it had been determined that the market had failed. The Commission noted that it would also consider the other options listed above and, additionally, alternatives proposed by commenters that were not listed in the *Notice*. We also indicated that none of the proposals would diminish the Fairness Doctrine obligations of licensees.

Discussion of the Action Being Taken

23. In this section, we will discuss the action that we are taking and the basic rationale for taking it. As with all four substantive areas under consideration, a discussion of the history of Commission involvement in the area, of the comments filed in this proceeding with regard to the area, and a discussion of the major issues raised in those comments are contained in Appendices.

24. We believe that the public interest warrants the elimination of our current non-entertainment programming guidelines for commercial broadcast radio. We are convinced that absent these guidelines significant amounts of non-entertainment programming of a variety of types will continue on radio. However, because of the growth of radio and other informational and entertainment services available to the public, we do not believe that it is necessary for the government to continue to assume, albeit indirectly, that every radio station broadcast a wide variety of different types of programming. Our review convinces us that the history of governmental involvement in non-entertainment programming has been driven by one overriding concern—the concern that the citizens of the United States be well informed on issues affecting themselves and their communities. It is with such information that the citizenry can make the intelligent, informed, decisions essential for the proper functioning of a democracy.[12] Accordingly, we believe the only non-statutory programming obligation of a radio broadcaster should be to discuss issues of concern to its community of license. This obligation can be fulfilled without resort to a guideline of limited effect and, we believe, of no substantial utility.

25. Furthermore, although we are eliminating the nonentertainment programming guideline, and taking the other actions discussed below, many other Commission policies and rules will remain intact so that, contrary to the fears of many commenters, all control over broadcasting is not being abandoned by the Commission. This proceeding leaves untouched our Equal Employment Opportunities rules for broadcast stations and our minority ownership policies.[13] Additionally, our technical requirements are not being changed herein so that absent the regulations that are being eliminated we will not see a return to that unregulated period prior to 1927 when:

> chaos rode the air waves, pandemonium filled every loud-speaker and the twentieth century Tower of Babel was made in the image of the antenna towers of some thousand broadcasters who, like the Kilkenny cats, were about to eat each other up.[14]

Our network affiliation regulations[15] and general Commission policy prevent licensees from delegating their responsibility to assure that their stations are not utilized for purposes contrary to the public interest. So too will the public be protected. In short, the Commission is not abandoning radio to forces completely beyond its own, or the public's, control. Rather, the action taken herein is intended to assure that broadcasters will have the maximum flexibility to be responsive to issues important to their listeners, with the minimum amount of governmental interference.

26. While eliminating the current non-entertainment programming guideline, we will continue to have certain expectations of radio broadcasters. What we expect, and do not expect, of broadcasters is as follows. We do not expect broadcasters to fit their nonentertainment programming into a mold whereby each station has the same or similar amounts of programming. Other than issue responsive programming, stations need not, as a Commission requirement, present news, agricultural, *etc.*, programming. We believe the record, as discussed in Appendices D and E, demonstrates that

[12] "(S)peech concerning public affairs is more than self-expression; it is the essence of self-government." *Garrison* v. *Louisiana*, 379 U.S. 64, 74–75 (1964).

[13] See Section 73.2080 of the Commission's Rules and *Statement of Policy on Minority Ownership of Broadcast Facilities*, 68 FCC 2d 979 (1978), respectively.

[14] Emery, *Broadcasting and Government*, Michigan State University Press, 1971, pages 23–24, citing, Chase, *Sound and Fury*, New York, 1942, page 21.

[15] For an overview of these regulations see, *Review of Commission Rules and Regulations by Standard (AM) and FM Broadcast Stations*, 63 FCC 2d 674 (1977).

stations will continue to present such programming as a response to market forces. We do not expect radio broadcasters to attempt to be responsive to the particular problems of each group in the community in their programming in every instance. We do not expect radio broadcasters to be responsive to the Commission's choices of types of programs best suited to respond to their community. What we do expect, however, is that marketplace forces will assure the continued provision of news programs in amounts to be determined by the discretion of the individual broadcaster guided by the tastes, needs, and interests of its listenership. We do expect, and will require, radio broadcasters to be responsive to the issues facing their community. However, in determining which issues to cover, commercial radio broadcasters may take into account their listenership and its interests, and the services provided by other radio stations in the community to groups other than its own listenership. Of course, broadcasters cannot engage in intentional discrimination in their selection of issues to be addressed with programming. Stations in smaller communities, where few alternatives are available to listeners, will have to be more broadly based in their programming. This does not seem to us to be undue governmental interference into programming as good business sense dictates that stations in smaller communities must broadly base all of their programming to attract, hold and serve a large audience. In markets where a full complement of programming services are available in the totality of stations, broadcasters will have the flexibility to choose which issues they believe warrant coverage based on the existence of other radio services appealing to other segments of the community. The focus of our inquiry, in the case of a challenge, will be upon whether the licensee's judgment in this regard was reasonable. Also, we expect adherence to the Fairness Doctrine and to other statutory requirements regarding programming. In other words, radio broadcasters will have what we believe to be the maximum flexibility under the public interest standard as regards their nonentertainment offerings. They will be expected to address issues of concern to the community or, where programming serving many segments of the community is otherwise available, their own listenership. No station, however, will be forced into a rigid mold and we will not endeavor to dictate the types of programs that must be used to respond to community issues or, as will be discussed later, how to ascertain what issues are present and which of these warrant attention.

27. We base this resolution on the data compiled and included both in the *Notice* and the subsequently released *Public Notice* (Report No. 15448, released January 11, 1980), that data filed with comments, and our review of the law, the historical background and, indeed, the entire record of this proceeding. From the beginning of radio regulation, it has been thought that one of the principal purposes of mass communications should be the dissemination of information to the population. Indeed, the possibility of a single group controlling the radio medium and distorting that information was perhaps the chief spur for regulation.[16] As discussed in the *Notice*, in the 1920's, the so-called "Radio Trust" raised the specter of what was perceived to be a monolithic block controlling the means of the distribution of information to the American people. As was stated by Congressman Johnson of Texas, in debating the 1927 Radio Act, "* * * publicity is the most powerful weapon that can be wielded in a republic, and when such a weapon is placed in the hands of one, or a single selfish group is permitted to either tacitly or otherwise acquire ownership and dominate these broadcasting stations throughout the country, then woe be to those who dare to differ with them."[17]

28. As has been concluded by the Supreme Court, in adopting the Radio Act, Congress moved under the spur of a widespread fear that in the absence of governmental control the public interest might be subordinated to monopolistic domination in the broadcasting field.[18] The reason for the concern with monopolization was obvious; the control of radio by a single group was thought to create the possibility that the public would receive only limited information in accordance with what the Radio Trust wanted the public to know. Rather, what was then, and has remained, among the primary concerns is that radio should present information on public issues so that the public may be informed and that this information should come from diverse sources.

29. Shortly after the Radio Act was enacted by Congress, the Federal Radio Commission was called upon to consider questions concerning the role of radio in addressing issues of public concern. It stated that the public interest requires "ample play for the free and fair competition of opposing views," and that it believed that "the principle applies * * * to all discussions of issues of importance to the public."[19]

30. The concern that issues be addressed by broadcasters continued unabated. In 1940, the FCC decided the *Mayflower Broadcasting* case[20] in which it noted:

> Freedom of speech on the radio must be broad enough to provide full and equal opportunity for the presentation to the public of all sides of public issues. Indeed, as one licensed to operate in a public domain, the licensee has assumed the obligation of presenting all sides of important public questions, fairly, objectively and without bias.[21]

Similarly, in 1945, the Commission spoke of:

> The duty of each station licensee to be sensitive to the problems of public concern in the community. * * *[22]

The next year, when the Commission issued its *Public Service Responsibility of Broadcast Licensees*, the so-called *"Blue Book,"* it listed programming devoted to the discussion of public issues among those types felt to be desirable, and gave recognition to the need for adequate reflection in programming of matters of local interest, activities and talent.

31. In 1949, the Commission adopted its *Report on Editorializing by Licensees*,[23] in which it set aside some twenty-two years of precedent and permitted broadcasters to editorialize. In coming to its decision, the Commission addressed the issue of mass communications' impact upon and relationship to democracy. It stated that:

> (i)t is axiomatic that one of the most vital questions of mass communication in a democracy is the development of an informed public opinion through the public dissemination of news and ideas concerning the vital public issues of the day. Basically, it is in recognition of the great contribution which radio can make in the advancement of this purpose that portions of the radio spectrum are allocated to that form of radio communications known as radio-

[16] See, for instance, 67 Cong. Rec. 12352, 12358, 68 Cong. Rec. 2576, 3030 and 3031.

[17] 67 Cong. Rec. 5557, 5558.

[18] *Federal Communications Commission* v. *Pottsville Broadcasting Co.*, 309 U.S. 134, 137 (1940); *National Broadcasting Company* v. *United States*, 319 U.S. 190, 219 (1943).

[19] *Great Lakes Broadcasting Company*, 3 FRC Ann. Rep. 32, 33 (1929), *rev'd on other grounds, sub nom. Great Lakes Broadcasting Co.* v. *F.R.C.*, 37 F. 2d 993, *cert. dismissed*, 281 U.S. 706 (1930).

[20] *Mayflower Broadcast Corp.*, 8 FCC 333 (1940).

[21] *Id.* at 340. It should be noted that as of the time this case was decided, broadcasters were still not permitted to editorialize. That restriction was "deregulated" in 1949.

[22] *United Broadcasting Co.*, 10 FCC 515, 517 (1945).

[23] 13 FCC 1246 (1946); hereinafter referred to as the "Editorializing Report."

broadcasting. Unquestionably, then, the standard of public interest, convenience and necessity as applied to radio-broadcasting must be interpreted in light of this basic purpose.

Accordingly, the Commission recognized the need for stations to offer, ". . . news and programs devoted to the consideration and discussion of public issues of interest in the community served by the particular station." However, the Commission's role was to defer to the licensee in making the determination of what percentage "of the limited broadcast day should appropriately be devoted to news and discussion or consideration of public issues rather than the other legitimate services of radio broadcasting. . . ."

32. Needless to say, this concern continued as indicated in the 1960 *Programming Statement*. In that *Statement* the Commission concluded that while the First Amendment forbids governmental interference asserted in aid of free speech as well as that repressive of it, broadcasters, because of the peculiar relationship between broadcasting and the First Amendment, had the obligation to offer programming relevant to the "tastes, needs and desires of the public they are licensed to serve."[24] Additionally, because of the then recent amendment of Section 315 of the Act,[25] the Commission noted the additional obligation of licensees to afford reasonable opportunity for the discussion of conflicting points of view on controversial issues of public importance.

33. The Supreme Court had the opportunity to address the impact of Section 315 in the landmark *Red Lion* case.[26] Justice White's opinion in that case spoke eloquently about both the goals of the First Amendment in a democracy and its relationship to the concept of the "public interest." Justice White spoke in terms of a First Amendment goal of producing an informed public capable of conducting its own affairs and stated that:

> [i]t is the purpose of the First Amendment to preserve an uninhibited market-place of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market whether it be by the Government itself or a private licensee. (Citations omitted)[27]

Broadcasting was to have a role in this constitutional scheme. The public interest standard applied to broadcasting was said to encompass "the presentation of vigorous debate of controversial issues of importance and concern to the public." It was suggested, in fact, that this obligation preexisted the amendment of Section 315 of the Act and was an integral element of licensees' public interest obligations. While the manner in which the obligation is to be fulfilled (whether through the broadcaster's exercise of discretion or by the provision of right of access to assure the mandated type of presentation) has been settled,[28] the basic, underlying concern that radio broadcasting addressed issues with programming has been a constant theme at all times in the regulation of broadcasting. As discussed in the section on ascertainment, the broadcaster will have to place a listing of five to ten issues that it addressed with programming, together with a listing of examples of that programming, in its public file at least annually on the anniversary of the grant of authorization or license renewal.

34. Whether the obligation is described as one to serve the specific interests of the community,[29] to meet the tastes, needs and desires of the public,[30] or to address the needs and problems of the community,[31] the chief concern has always been that issues of importance to the community will be discovered by broadcasters and will be addressed in programming so that the informed public opinion, necessary to the functioning of a democracy, will be possible. Accordingly, we will require that stations program to address those issues that it believes are of importance to the general community or, depending upon the availability of other radio services in the community, to its own listenership.[32] In this fashion we believe that we will best assure that the bedrock obligation contemplated by the "public interest" will be fulfilled with the least government intrusion[33] and with the most licensee flexibility. This flexibility will allow radio broadcasters to address issues by virtually any means. This includes programming described under current definitions, and can consist of, by way of example and not limitation, public affairs, public service announcements, editorials, free speech messages, community bulletin boards, and religious programming.[34] Flexibility will also attach to the amounts of such programming to be offered. While we believe the record demonstrated that news programming is presented in response to the interests of listeners, other programming that may be necessary to comply with the requirement to address issues of public importance may not be. We feel that such programming is an important component of the public interest standard and should be available on radio. Nonetheless, we do not believe that it is advisable or necessary to specify precise quantities of programming that should be presented by all stations regardless of local needs and conditions. Therefore, we will eliminate our current guideline and will not specify any particular amount of total nonentertainment programming that should be presented. We believe that given the competition and number of stations now present in the radio broadcasting field, there is even less of a need now than there was twenty years ago for us to articulate any "rigid mold or fixed formula for station operation."[35] Rather, stations should be guided by the needs of their community and the utilization of their own good faith discretion in determining the reasonable amount of programming relevant to issues facing the community that should be presented.[36] The renewal standard

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[24] *En Banc Programming Inquiry Statement*, 44 FCC 2303, 2314 (1960) (hereinafter to be referred to as the *"Programming Statement"*).

[25] Act of September 14, 1959, § 1.73 Stat. 557, amending 47 USC § 315(a).

[26] *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367 (1969).

[27] *Id.* at 390.

[28] *Columbia Broadcasting System* v. *Democratic National Committee*, 412 U.S. 94 (1976), concluded that a right to access did not exist. What was held to be important was the public's right to be informed, not the right of any group or individual to broadcast its own particular views. Therefore, it was up to the licensee to determine which issues would be addressed and by whom.

[29] *P. B. Huff, et al.*, 11 FCC 1211, 1218 (1947).

[30] *En Banc Programming Inquiry Statement, supra*, at 2314.

[31] *Ascertainment of Community Problems*, 27 FCC 2d 650 (1971).

[32] Individual radio stations do not exist in a vacuum and should behave accordingly. In every community there are many possible issues worthy of discussion. It is appropriate for an individual licensee to take into account the coverage of issues by other stations, as well as the preferences of its particular audience, in determining which issues it should be addressing.

[33] One criterion of superior performance by broadcast licensees has been stated to be independence from governmental influence in promoting First Amendment objectives. *Citizens Communications* v. *F.C.C.*, 463 F.2d 822 (D.C. Cir. 1972). We certainly agree that for the proper functioning of our system of government, and of broadcasting, such a goal is valid and extremely important. We view our action herein, in part, as furthering this objective.

[34] We would like to reiterate at this point that our recent decision in BC Docket 78-335, Community Service Programming, (FCC 80-558) not to adopt such a category should not in any way be taken to reflect a determination on our part that nonprofit and religious groups do not play an important part in their communities. To the contrary, we believe that such organizations play an important role in their communities and can provide valuable insights to broadcasters with regard to identifying and responding to issues facing the community.

[35] *En Banc Programming Inquiry Statement, supra* at 2314.

[36] Such issues need not be controversial issues of public importance such as require coverage pursuant to the Fairness Doctrine. While station

will be retrospective in application and will contemplate a showing that during the prior license term the licensee addressed community issues with programming. The licensee need not demonstrate that it provided news programs, agricultural programs, *etc.* It need only show that it addressed community issues with whatever types of programming that it, in its discretion and guided by the wants of its listenership, determined were appropriate to those issues. This will, of course, necessitate a change in various Commission forms. Those changes are set forth in Appendix J.

35. Having set forth the general nature of the requirements that will remain in this area in light of the elimination of the non-entertainment programming guideline, we now turn to two areas addressed in the comments that are intimately related to the elimination of the guideline. These are, the effect of the guideline's elimination upon comparative license applications, and upon the petition to deny process.

Comparative Applications

36. A number of commenters asserted that the elimination of the non-entertainment programming guideline would seriously interfere with the comparative application process and the licensee's asserted "legitimate renewal expectancy." When we adopted the *Notice* in this proceeding we, too, had serious questions as to the interplay between the proposed deregulation and the comparative proceeding process.[37] It is important that we discuss and resolve to the extent possible within this document the issues raised in that regard.

37. The first focus of our attention in this subject area must be the claim by many commenters that the elimination of the guideline would, absent the publication of a prgramming policy statement or an optional guideline, impermissably interfere with a broadcaster's "legitimate renewal expectancy." In requiring the periodic renewal of broadcast station licenses, Congress provided what has been called a "competitive spur" to licensees by permitting new parties to have the opportunity to apply for the same license.[38] Indeed, it has been asserted that the "public interest, convenience or necessity" test is, in fact, a matter of comparative reference and not an absolute standard when applied to broadcast stations.[39] To balance against this "competitive spur" licensees have been accorded a "legitimate renewal expectancy."[40] That is not to say that a license holder has an unassailable right to retain his license. The Communications Act clearly provides for periodic renewal [Section 307(d)] and prohibits a licensee from having any "right beyond the terms, conditions, *and periods* of the license." (Section 301 of the Act, emphasis supplied). Rather, what the expectancy contemplates is that a licensee serving the public interest should be able to expect that his license will be renewed and, if challenged by a competing applicant, he will be entitled to a comparative plus if he is able to make a showing of having provided substantial service.

38. Two critical questions arise with regard to the comparative application area. The first is whether or not the present guideline is necessary to provide the "renewal expectancy." The second is whether nonentertainment programming is a necessary element for evaluation in the comparative context.

39. As has been the general case with respect to programming guidelines, the Commission has traditionally declined to adopt numerical standards that it would use in the comparative context as an indicator of substantial service. In fact, beginning in 1971, the Commission adopted a series of *Notices of Inquiry* looking into the advisability of instituting a proceeding to determine whether it should attempt to quantify by a percentage guideline the concept of substantial service in the comparative context.[41] In April, 1977, we adopted a *Report and Order* in which we declined to establish any such quantitative standards. At that time we noted that merely increasing the amount of programming did not necessarily improve the service provided or give any significantly greater certainty as to what constituted superior service. We concluded that guidelines would be, "a simplistic, superficial approach to a complex problem. . . ."[42] We were sustained in this conclusion by the United States Circuit Court of Appeals for the District of Columbia in *National Black Media Coalition* v. *F.C.C., supra,* which noted that:

> (n)othing in the Communications Act imposes any requirement that the FCC promulgate quantitative programming standards. In granting broadcast licenses the FCC must find that the "public convenience, interest or necessity will be served thereby." (Citation omitted) Within these broad confines, the Commission is left with the task of particularizing standards to be used in implementing the Act.[43]

40. Having recently rejected the connection between the mere amounts of programming aired in response to a guideline and the quality of performance (sufficient to constitute substantial service and to thereby satisfy the licensee's "legitimate renewal expectancy"), we cannot find in the instant record any cause to modify that view. Simply speaking, whether or not the Commission were to retain the instant non-entertainment programming guideline, it would not serve the purpose claimed by several commenters with regard to their renewal expectancies and the *ad hoc* evaluation of programming would remain necessary. In fact, the present programming percentages are utilized by the Commission's staff in processing renewal applications. Meeting these guidelines does not assure a licensee of renewal but merely gives the staff a tool by which to judge but one aspect of an applicant's performance. As evidenced by the case law, the analysis of a renewal applicant's programming performance in a comparative renewal situation, even under our existing procedures, goes beyond an examination of programming percentages. Therefore, our determination to eliminate the guideline is not altered on this basis. Similarly, we decline the invitation to provide an optional guideline as to what amount of non-entertainment programming would constitute substantial service as, in this context:

> . . . quantitative standards do not appear to us to offer licensees, competing applicants, or the public any significantly greater certainty as to what level of performance would constitute substantial service. In addition, of course, even a clear history of substantial service would not guarantee renewal, since any preference awarded for it cannot terminate the hearing in favor of the incumbent licensee.[44]

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programming can, and must, include coverage of such issues, local issues that are not necessarily burning issues of a controversial nature should also be addressed.

[37] See, paragraphs 263–266 of the *Notice.*

[38] See, Section 301 of the Communications Act of 1934, as amended.

[39] Federal Radio Commission, *Second Annual Report to Congress* 170 October 1, 1928).

[40] *National Black Media Coalition* v. *FCC,* 589 F.2d 578 (D.C. Cir. 1976); also see, *F.C.C.* v. *National Citizens Committee for Broadcasting,* 436 U.S. 775 (1978); and *Greater Boston Television Corp.* v. *F.C.C.,* 444 F.2d 841, 854 (D.C. Cir. 1970), *cert. denied,* 403 U.S. 932 (1971). In *Greater Boston,* the court noted that such an expectancy is provided, ". . . in order to promote security of tenure and to induce efforts and investments furthering the public interest that may not be devoted by a licensee without reasonable security."

[41] *Notice of Inquiry,* 27 FCC 2d 580 (1971); *Further Notice of Inquiry,* 31 FCC 2d 443 (1971); *Second Further Notice of Inquiry,* 43 FCC 2d 367 (1973); and *Third Further Notice of Inquiry,* 43 FCC 2d 822 (1973).

[42] 66 FCC 2d 419, 429 (1977).

[43] *Id. at 581.*

[44] 66 FCC 2d 419, 428 (1977).

41. There being no valid nexus between the current guideline and the rendition of substantial service in the comparative context, we do not see any reason on this ground to retain the current guideline or to eliminate it while substituting an optional guideline as an indicator of such service warranting a comparative plus in all situations if met. Rather, where the public "interest lies is always a matter of judgment and must be determined on an *ad hoc* basis." [45]

42. The second aspect of the elimination of the guideline and its impact on the comparative process is somewhat more problematical. To restate the question: in the absence of the guideline, and in view of our determination as set forth above, should quantity or quality of non-entertainment programming be a comparative criterion?

43. The history of non-entertainment programming's relationship to the comparative process over the past 15 years is somewhat involved. In 1965, the Commission issued its *Policy Statement on Comparative Broadcast Hearings.*[46] The *1965 Policy Statement* concluded that there were two principal objectives toward which the "process of comparsion" should be directed: the best practicable service to the public and the maximum diffusion of control of the media of mass communications. Both objectives concern programming, the former because "the best practicable service to the public" necessarily means program service to the public and the latter because such diffusion of control would result in a multiplicity of voices being represented in programming. Indeed, among the factors set forth in the *1965 Policy Statement* as being significant to these two principal objectives were proposed program service and past broadcast record. However, under the policy, only if there were material and substantial differences between applicants' proposed program plans, or where a prior broadcaster had shown unusual attention (or inattention) to the public's needs would a programming showing be relevant in a comparative proceeding.

44. The *1965 Policy Statement* did not necessarily apply to a pure comparative renewal hearing. To clarify the issue of what standards would be applied in such hearings, in 1970 the Commission adopted the *1970 Policy Statement Concerning Comparative Hearings Involving Regular Renewal Applicants.*[47] The *1970 Policy Statement*, too, addressed the issue of programming's relevance to the comparative proceeding. However, the *1970 Policy Statement* was vacated in *Citizens Communications Center* v. *F.C.C.*, 447 F. 2d 1201 (D.C. Cir. 1971). In vacating the *1970 Policy Statement*, the court, citing and reiterating its decision in *Johnston Broadcasting Co.* v. *F.C.C.*, 175 F. 2d 351, (D.C. Cir. 1949), stated:

> The Commission cannot ignore a material difference between two applicants and make findings in respect to selected characteristics only . . . It must take into account all the characteristics which indicate differences, and reach an evaluation of all factors, conflicting in many cases.[48]

Nevertheless, the court approved of a focus on the incumbent licensee's record of past performance where there is a material difference between applicants so long as other factors are also considered.

45. With the *1970 Policy Statement* having been vacated, the Commission undertook case-by-case determinations relative to competing applicants. We also sought to bring more certitude to the process by adopting a series of *Notices of Inquiry*,[49] looking into the adoption of a quantitative programming guideline for utilization in assessing programming performance in the comparative proceeding context. As noted above, the Commission concluded that the adoption of such a guideline was unwarranted and unwise and declined to do so.

46. This difficult area continued to generate cases. For instance, in *Central Florida Enterprises, Inc.* v. *F.C.C.*, 598 F. 2d 37 (D.C. Cir. 1978), *cert. denied* 441 U.S. 957 (1979), the Court of Appeals determined that the Commission could utilize the *1965 Policy Statement* to govern comparative renewal proceedings. However, the court concluded that in the particular case before it the Commission had misapplied the criteria set forth in that *Statement*. The court later amended its opinion and issued a *per curiam* Order [50] in which it noted the importance of programming determinations in the comparative renewal process, especially as such determinations have an impact upon renewal expectancies. More recently, the Court of Appeals indicated that a record of programming service must be considered in the comparative context when not to do so would automatically disadvantage the existing licensee, "in favor of untried newcomers." [51] It is not within the ambit of this proceeding to attempt to resolve the issue of how the various comparative criteria should be weighed in importance as between each other. Further proceedings will be necessary to that end. However, one thing does appear evident from the above. That is that programming has been an essential ingredient of the comparative renewal process. Where proposals indicate material differences between applicants, it has also been relevant to the comparative new applicant process. The extent to which nonentertainment programming has traditionally been considered in the comparative process is not being changed by this rulemaking although the underlying programming obligation is changed as indicated above. Any change in the relative importance of programing viz-a-viz diversification will have to await a further proceeding.

47. We must, however, set forth our policy relative to the question of the type of programming showings we will expect in the comparative new application and renewal application proceedings. Initially, we must note that we intend no departure from current procedures requiring the designation of a specialized programming issues only where substantial or material differences exist between proposals. In the comparative new application proceeding, where there is a programming issue, we will be concerned with comparing the proposals made by the applicants as to which would best provide a new service to a previously unserved significant segment of the community or would best improve upon existing services. We would expect that this showing would be made by reference to what is currently being offered in the market, an evaluation of what significant segments of the community are not receiving program service, and by a showing of how the applicant's proposed programming would serve this unfulfilled need. This will permit applicants to focus upon the needs (or more appropriately unmet wants) of significant segments of the community. As set forth above, our new approach will no longer seek to assure that each station present "well-balanced" or "something-for-everyone" programming. In the past, we have gone to great lengths to attempt to assure that

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[45] *McClatchy Broadcasting Company*, 239 F. 2d 15 (D.C. Cir. 1956).

[46] 1 FCC 2d 393 (1965) (hereinafter referred to as the *"1965 Policy Statement"*).

[47] 22 FCC 2d 424 (1970) (hereinafter referred to as the *"1970 Policy Statement"*).

[48] *Johnston Broadcasting Co.* v. *F.C.C.*, *supra* at 356–357.

[49] See footnote 41, *supra*.

[50] See, *Central Florida Enterprises, Inc.* v. *F.C.C.*, *per curium* Order reprinted at 44 R.R. 2d 1568, 1569 (1979).

[51] *Julie P. Miner* v. F.C.C., Case No. 78–1903, Slip Opinion issued December 1, 1980, p. 12. The *Miner* case itself did not involve a pure comparative renewal situation.

well balanced programming was offered. In a continuing (although not unbroken) line of authority from the First Annual Report to Congress of the Federal Radio Commission, through the 1946 *Blue Book* and *1960 Programming Statement*, and right up to our ascertainment requirements, we and our predecessors have attempted to assure the presence of programming relevant to all significant segments of the community. Often this was to be accomplished by requiring each station to attempt to meet all such needs, sometimes by reference to other services available.[52]

48. Our new regulatory thrust is to attempt to permit the large number of stations currently operating (and commencing service henceforward) to each serve their own audience in the appropriate circumstances. It is based upon the recognition that more issues can be addressed through such specialized programming than through a generalized "something for everyone" requirement. In markets where there are a significant number of radio stations operating, each will be permitted to assess what other radio services are available in the market in determining its own service and in choosing which issues to address with programming. Of course, the smaller the number of stations and services available, the broader based each will have to be in its programming to assure programming for all significant segments of the community. But in communities with many stations each may make an assessment of the other services available and base its programming on that assessment and be more specialized in its offerings. With regard to competing new applicants, the programming showing should be made on how each intends to serve currently unmet needs; the hallmark of a superior proposal in that context will be based on an *ad hoc* evaluation of which proposal will best serve community needs. We believe that this approach can best serve the public interest objective of obtaining licensees, and programming, that address community issues with fresh voices and which will initiate, encourage and expand diversity of viewpoints and varieties of programs available with the least government oversight of, and intrusion into, programming decisions.

49. The Administrative Law Judge's decision on the programming issue in the comparative renewal setting will, on an *ad hoc* basis, determine whether the incumbent was providing minimal service or substantial service.[53] While minimal service would permit renewal had the licensee not been challenged by a competing applicant, it would not result in a comparative plus. The examiner will also weigh the challenger's proposal and determine whether it was anything more than a "blue sky" proposal. If it appeared to be a viable plan capable and likely of being effectuated by the challenger, it would receive a programming plus in the face of the incumbent's minimal performance. An incumbent found to have rendered substantial performance would have to be given a programming plus of major significance as the incumbent would have already faced the marketplace and provided substantial service to the listenership whereas the challenger, if granted the license, may not be able to effectuate his plans. In that case the Commission would have tossed aside a superior licensee for one that might not perform in such a fashion. This result is inherent in the concept of a legitimate renewal expectancy. We emphasize that we are not changing the procedure, the issues, or the showings necessary to support the specification of an issue. Rather, we are indicating the focus which any comparative consideration of programming should take.

Petitions To Deny

50. In the *Notice*, we cited as the tentatively preferred option in the nonentertainment programming area reliance on market forces, with government intervention occurring only in the event of market failure. Thus, a petitioner would have to have made out a showing of market failure before the Commission would intervene in this area. With the advantage of a complete record, it became clear that the analytical and administrative burdens and costs that this method would place upon petitioners, licensees, and the Commission could be enormous. Extensive data collection, public opinion sampling, and analysis would have to have been performed before the Commission could assess whether any individual market had failed. Given the number of markets in which such an analysis might have to be performed, this is not an appropriate area in which to go to a complete market solution. Additionally, there could be legal ambiguities in reconciling individual licensee responsibilities and obligations, on the one hand, and overall market responsibilities on the other. These problems are more fully discussed in Appendix E, *infra*. Given these difficulties, we have opted for the maintenance of individual licensee obligations to program to meet community needs. In this context, it is possible to discuss the relationship between nonentertainment programming and petitions to deny.

51. The petition to deny is a statutorily authorized process under Section 309(d) of the Act. The sorts of allegations that will be considered in a petition have not been codified and have changed over time. For instance, prior to 1949, a party with standing could legitimately have complained that a particular station was violating the public interest by airing editorials. Once the bar on editorializing by licensees was lifted, such an allegation would not have been appropriate in a petition to deny. Simply, the allegations relevant to a petition to deny change over time and depend upon whatever regulations are then in effect.

52. Given the elimination of the nonentertainment programming guideline, the specific amount of nonentertainment programming being offered by an individual station, standing alone as an allegation, will not be appropriate for petitions to deny. In view of the course of action that we are taking herein, the type of nonentertainment programming allegation that will be relevant for a petition to deny would consist of a showing that an individual station is doing very little, or nothing, to address through its programming issues facing the community. The focus of such an allegation should not be on the mere amount of programming. We do not wish to return to a "numbers game" whereby 6% nonentertainment programming is sufficient to warrant renewal whereas 5% will result in, at least, delay, and, perhaps, designation for hearing with the possibility of the loss of the license. A station with good programs addressing public issues and aired during high listenership times but

[52] See paragraphs 61–65, *infra*.

[53] Minimal performance is only that which would justify renewal in the absence of challenge by a competing applicant. It would consist of performance of all statutory obligations (*i.e.*, Fairness Doctrine, access by candidates for federal elective office, *etc.*) and minimal, although adequate, attention to the issues confronting the licensee's community, primarily, and service area outside of its community, secondarily. Substantial performance would include this, but would additionally contemplate a showing that more or better programming than that which would be considered "minimal" is being devoted to addressing issues facing the community (or, where a number of stations are present, a significant segment of the community). That type of showing can be made by almost any means, including, but not limited to, any of the following: demonstration of amounts of programming, local production of programming, or by any other type of showing reasonably related to demonstrating service over and above what would be considered minimal.

amounting to only 3% of its weekly programming may be doing a superior job to a station airing 6% nonentertainment programming little of which deals in a meaningful fashion with public issues or which is aired when the audience is small.

53. Similarly, petitioners may make allegations in petitions to deny that an individual station in the community is failing to address issues of particular relevance to a significant segment of the community. However, a station confronted with such a challenge will be able to respond by pointing not only to its own programming that may have addressed such issues, but also to other radio services available in the community that could reasonably have been relied upon to address such issues. It will not have to demonstrate that programming was available in the community in an amount proportional to the complaining group's representation in the community. Proportional programming has never been a requirement of the public interest.[54] In fact, since all individuals have some general interests as well as special interests, it is inappropriate to expect special interest programming to be proportional to special interest populations. Rather the licensee may demonstrate the sufficiency of its own programming and, in doing so, relate to other services available in its community. For instance, an individual licensee with, by way of example, a country and western music format must address public issues. If challenged in a petition to deny alleging a lack of programming directed towards issues faced by minorities, it may demonstrate that it did indeed offer such programming or, if it did not, the local station oriented toward the minority audience was present in the community and that the challenged station was reasonable in its reliance upon that station to offer nonentertainment programming relevent to the issues facing the miniority community. However, the same licensee confronted by a petition alleging that it offered no nonentertainment programming relevant to any public issues may not defend by showing the presence of an all news and public affairs station in the community or by showing that other stations are providing significant amounts of such programming. Individual stations retain the obligation to provide programming relevant to public issues, but which issues they address may be determined by the interests and nature of their audience and the availability of other program services. While the programming offered by a local noncommercial radio station may be taken into account as a factor in making choices such as this, licensees may not rely upon the mere presence of such a station to obviate their obligation to provide programming responsive to issues facing the community. Noncommercial radio stations simply cannot reasonably be expected to respond with programming related to all non-majoritarian related issues.

54. The focus of our inquiry in the case of a challenge to license renewal will be whether the challenged licensee acted reasonably in choosing which issues to address. Licensees directing their nonentertainment programming to a narrow audience may defend their decision by demonstrating the presence of other stations in the community that reasonably were relied upon to address the issues confronting the other segments of the community. If the licensee can demonstrate that such other stations were present and that it acted reasonably in relying upon them to address issues pertinent to other segments of the community, the station will be permitted to be more narrowly focused. When called upon to assess the reasonableness of the licensee's decision, the Commission will have to undertake an *ad hoc* review which considers the circumstances in which the decision was made. For instance, a station in a market with a minority oriented station may be reasonable in not treating issues of particular relevance to the minority community. However, as with noncommercial stations, the mere presence of a minority station is not dispositive. If that minority oriented station, had, for instance, consistently not presented such programming, the licensee's judgment may not have been reasonable. Minority issues may have been ignored long enough for the Commission to determime that the licensee knew or reasonably should have known this and should have taken steps to correct it. Thus, whether a broadcaster's determination is reasonable will depend on the circumstances within which it is made. In all cases, however, the burden will be upon the licensee to demonstrate, if called upon to do so, that its determination was reasonable. Such evaluations have been made by the Commission in other areas of regulation. For instance, in Fairness Doctrine enforcement the focus of our inquiry is upon whether the licensee acted *reasonably*. See, *Fairness Doctrine Primer*, 40 FCC 2d 598, 599 (1964) and *Fairness Report*, 48 FCC 2d 1, 9 (1974). Similarly, the responsiveness of programming under ascertainment requirements has always been assessed on an *ad hoc* basis. Nonentertainment programming, therefore, remains a relevant issue for petitions to deny. Of course, all other potential grounds for petitions to deny that are not affected by this proceeding will also remain as valid subjects for petitions.

Ascertainment

The Proposals

55. In the *Notice* the Commission set forth four proposals relative to our formal ascertainment requirements. Briefly, the proposals were:

(1) To eliminate both the ascertainment procedures and the general ascertainment obligation and to leave it to marketplace forces to ensure that programming designed to meet the needs and problems of each station's listenership is supplied;

(2) To require ascertainment to be conducted by licensees but to permit them to decide in good faith how best to conduct that ascertainment without formalized Commission requirements;

(3) To retain our ascertainment requirements, but in a simplified form; or

(4) To retain our ascertainment requirements as they currently exist.

Discussion of the Action Being Taken

56. We believe that the public interest no longer require adherance to detailed ascertainment procedures. Rather, in conformance with the programming obligations set forth above, radio licensees, applicants for new radio stations, for the assignment or transfer of existing stations or for major modifications of existing stations will be free to determine the issues in their community that warrant consideration and may do so by any reasonable means. To the extent that parties may wish to raise questions concerning those efforts, such questions should be directed to the realities of the program proposal of applicants, or the responsiveness of licensees, rather than to the ritual of ascertainment.

57. In reaching this conclusion, we recognize that ascertainment was never intended to be an end in and of itself. Rather, it is merely a tool to be used as an aid in the provision of programming responsive to the needs and problems of the community. We cannot stress this enough. Although we have been called upon to decide numerous cases revolving around issues of how an ascertainment was conducted, and

[54] See, *WKBN Broadcasting Corp.*, 30 FCC 2d 958, 970 (1971); *The Evening Star Broadcasting Co.*, 27 FCC 2d 316 (1971) *aff'd sub nom. Stone* v. *F.C.C.*, 466 F.2d 316 (1972); *Miami Valley Broadcasting Corp.*, 48 FCC 2d 177, 178 (1974).

whether it was sufficient, or if the correct community leaders were contacted by the requisite type of station employee, *etc.*, one should not let this obscure the underlying purpose of ascertainment—to foster relevant programming relating to community issues. The ascertainment process is merely a tool which the Commission has furnished to attempt to assure that all significant segments of a community are at least contacted so that the station can make an informed judgment about which issues it should cover and what needs exist and should be responded to. Ascertainment was never intended to become a "ritual dance." It was intended, rather, to assure discovery of problems, needs, and issues and to generate some relevant programming responsive thereto.

58. As our means to this end, we adopted formalized ascertainment requirements. Ascertainment grew out of two concepts of the role of radio. The first is that radio is a local medium, where stations are licensed to a community and are obligated to program primarily to that community. The second is that each station should attempt to provide "well-balanced" programming so that all segments of the community obtain the benefits of the licensee's ability to utilize a public resource—a radio frequency. The concept of localism was part and parcel of broadcast regulation virtually from its inception. It can be inferred from the Act itself,[56] and, as stated in the *Blue Book*, the Commission has:

given repeated and explicit recognition to the need for adequate selection in programs of *local* interests, activities and talent. (Emphasis added) [57]

As noted above, this adherence to the concept of localism continued through the *Programming Statement, supra*, and remains a consideration to this day.

59. The concept of well balanced programming is not quite so firmly entrenched. A bit of the history of the concept is instructive. Early in its history, the Federal Radio Commission, predecessor agency to the F.C.C., asked broadcasters applying for license renewal to list the average amount of time weekly devoted to: (1) entertainment; (2) religious; (3) commercial; (4) educational; (5) agricultural; and (6) fraternal programs. This indicates a concern that broadcasters should be responsive to the needs of these various significant segments of the community. While these elements may in retrospect appear to ignore what today are considered significant segments of the community, in the context of 1928, this list of program types may be seen as representing well-balanced programming. In 1929, the FRC, in its Third Annual Report to Congress stated that service in the public interest should include:

entertainment . . . religion, education, and instruction, important public events, discussion of public questions, weather, market reports, and news and matters of interest to all members of the family.

Again, the FRC was listing programming types representing "well-balanced" programming.

60. This concept remained vital and in the *Blue Book* the Commission expressly endorsed the importance of well balanced programming. Jumping ahead to 1960 and the *Programming Statement*, the Commission listed fourteen programming elements necessary to service in the public interest. That list included: opportunity for local self-expression; the development and use of local talent; programs for children; religious programs; educational programs; public affairs programs; editorialization by licensees; political broadcasts; agricultural programs; service to minority groups; and entertainment programs. Certainly, this too indicates the Commission's continuing concern with well-balanced programming. Needless to say, the *Ascertainment Primer* [27 FCC 2d 650 (1971)] and *Renewal Primer* [57 FCC 2d 418 (1975), *recon. granted in part*, 61 FCC 2d 1 (1976)] continued the concept. However, ascertainment of all significant segments of the community became the watchword rather than well balanced programming elements.[58]

61. The balanced program concept has never had quite the same force as the concept of localism. For instance, at the very beginning of modern radio regulation, Stephen Davis, the Solicitor of the Department of Commerce (wherein the regulatory authority over broadcasting first resided) stated that:

The character of the programs furnished is an essential factor in the determination of public interest but a most difficult test to apply, for to classify on this basis is to verge on censorship. Consideration of programs involves questions of taste, for which standards are impossible. It necessitates the determination of the relative importance of the broadcasting of religion, instruction, news, market reports, entertainment, and a dozen other subjects. *It may require the determination of preferences as between stations devoted to service of the public generally and those servicing only special groups, however, important.* (Emphasis supplied.) [59]

From the outset it was contemplated that some stations, depending on circumstances, could present well-rounded programming to the "public generally" while others served "only special groups," and that, therefore, not all stations would offer well-balanced programming.

62. By 1946, and the publication of the *Blue Book*, the Commission recognized that especially in metropolitan areas, where a number of stations existed and the listener could therefore choose among several stations, a balanced service to the listeners could be achieved:

. . . either by means of a balanced program structure for each station *or by means of a number of comparatively specialized stations which, considered together, offer a balanced service to the community.* (Emphasis supplied.) [60]

In 1946, when the *Blue Book* was published there were but 1,005 stations on the air.

63. As society changed over time, it became more aware of the need for programming by groups that were not being adequately served by broadcasting. Chiefly, this awareness grew out of the civil rights struggle that illuminated a segment of society that had previously been ignored in many ways, among which was by lack of relevant broadcast programming. Accordingly, when the *Programming Statement* was issued in 1960, it stated that the broadcaster should ascertain the needs of *all* segments of the community and:

should reasonably attempt to meet all such needs and interests on an equitable basis.[61]

No longer did it appear that balanced programming could be achieved through a number of comparatively specialized stations. Should that be permitted, those segments of the community that had been left unserved, or underserved, would be likely to remain unserved or underserved.

64. Eleven years later, when the original *Ascertainment Primer, supra*,

[56] Section 307(b) provides in part:

. . . the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.

[57] (*Blue Book*, p. 37.)

[58] This is not to say that the *En Banc Programming Inquiry Statement* has ever been repudiated by the Commission. It merely is to suggest that the emphasis has shifted from programming types to a process intending to assure that the content of the programming reflects responsiveness to groups comprising the community.

[59] Davis, *The Law of Radio Communications, 1st Edition*, McGraw-Hill Book Company, Inc., New York, 1927, p. 62.

[60] *Blue Book*, page 13.

[61] *Programming Statement, supra*, at 2314.

was adopted, we set forth a procedure for ferreting out problems of all significant elements of the community, but, nevertheless, did not necessarily require programming responses to all ascertained needs. Even in adopting the ascertainment requirements we noted, in response to question 25 ("Must an applicant plan broadcast matter to meet all community problems disclosed by his consultations?"), the following:

> Answer: Not necessarily. However, he is expected to determine in good faith which of such problems merit treatment by the station. In determining what kind of broadcast matter should be presented to meet those problems, the applicant may consider his program format and the composition of his audience, but bearing in mind that many problems affect and are pertinent to diverse groups of people.

However, as we have stated in applying this programming requirement to particular cases:

> In serving the needs of his community, the broadcaster is not required to meet all community problems; rather, a licensee may determine in good faith which problems merit treatment by the station. In making this determination, it may consider the particular format of the station, the composition of its audience and the programming offered by other stations in the community. *Taft Broadcasting Company*, 38 FCC 2d 770, 790 (1973).[62]

Thus, the broadcaster has been given some latitude to take into account the particular needs of its listeners, and the nature of other available programming in the market, in determining what its own programming responses should be.

65. Accordingly, at several times in the past, the Commission has recognized the possibility that stations could be more narrowly focused in their programming, especially when market factors (*i.e.*, "the particular format of the station, the composition of its audience and the programming offered by other stations in the community") permitted service to the entire community to be provided on a market-wide basis rather than by each individual station.

66. Given this background, the principal focus of ascertainment has been to uncover issues facing the community that go beyond those that might be discovered through the licensee's ordinary contacts, which might be limited to, "a rather narrow range of persons or groups."[63] Whether referred to as problems, needs, or interests, the fact is that what is to be discovered are public, community issues, some of which should be addressed with programming. All of the procedural requirements that have grown up around this basic obligation may have obscured this purpose. That never was our intention. As we stated:

> Moreover, the performance that concerns us is not the degree of sophistication used by the applicant in obtaining the data. Rather, it is his proposed programming.[64]

As noted above, localism has been, and continues to be, an important element of service in the public interest. However, the concept of well-balanced programming has not held such a continuing and elevated status. Given the factors present today in radio, where nearly 9000 stations provide service to the American people, we believe, as stated above, that well-balanced programming need not be required on each station in all instances. What is important is that broadcasters present programming relevant to public issues both of the community at large or, in the appropriate circumstances, relevant primarily to the more specialized interests of its own listenership. It is not necessary that each station attempt to provide service to all segments of the community where alternative radio sources are available.

67. The principal arguments made in the comments against the outright elimination of ascertainment were that: (1) stations would not seek out information regarding the needs and problems of their communities absent ascertainment; (2) even if broadcasters did attempt to find out about such needs and problems, they would only do so with regard to economically significant segments of the community; and (3) as purportedly demonstrated by a study filed by the WNCN Listeners Guild, absent the ascertainment requirement, stations would make woefully incomplete or inaccurate assessments regarding the problems facing their community. We have significant questions concerning the validity of these concerns in the present radio environment.

68. As discussed in the section dealing with the nonentertainment programming guideline, we have concluded that stations should be permitted to tailor their programming to conditions present in their market and the nature of their particular listenership. To reiterate, where there are few stations in the community, each station must be more general in its coverage of issues. However, in communities having a large number of radio services available, the public interest is not offended by permitting each station to base its service, including the issues to which it will be responsive with programming, upon the nature of the radio services otherwise available in the community and the interests of its own listenership. In this way all will continue to obtain the benefits of radio without regulations that straightjacket all stations into the same mold.

69. This being the case, what is important is that licensees utilize their good faith discretion in determining the type of programming that they will offer and the issues to which they will be responsive. It would be inconsistent with the exercise of good faith judgment for a broadcaster to be "walled off" from its community. Rather, broadcasters should maintain contact with their community on a personal basis as when contacted by those seeking to bring community problems to the station's attention. What is not important is that each licensee follow the same requirements dictating how to do so. Accordingly, formal ascertainment will be eliminated.

70. In certain hearing cases involving competing applications for new stations, major modifications of existing stations or renewal of licenses, material differences in program proposals can result in comparative consideration as between various mutually exclusive applicants before the Commission. In such instances, the only proper focus of our inquiry should be the responsiveness of the program proposals before us. We see no continuing reason to burden applicants, licensees or the Commission with detailed inquiries into which or how many community leaders were contacted, by whom, *etc.* This is not to say that the coverage of issues in a community would not be a relevant consideration in making such judgments. Rather, the methodological approach to those problems only obscures the issue of responsiveness and exhausts otherwise valuable resources in meaningless minutae.

71. Similarly, in situations where applicants are being considered without comparative challenge, any interested party will have the applicant's program proposal and be in a position to judge the responsiveness of that proposal. For renewal applicants, the public will have access to their programs/issues list to aid in assessing the station's responsiveness. Thus, broadcasters will be provided with the maximum in flexibility while, at the same time, programming relevant to a variety of significant issues present in the community will be available in that

[62] *Miami Valley Broadcasting Corp.*, 46 FCC 2d 177, 187 (1974).

[63] *Ascertainment Primer*, *supra* at 658.

[64] *Id.* at 662. While the passage refers to demographic, nevertheless it exemplifies our original and constant concern that the procedural aspects not overshadow the underlying purpose of ascertainment.

community on the radio airwaves. We see no reason to require the broadcaster to engage in the current sort of renewal ascertainment if community issues can be determined in a less burdensome manner. Again, it is the programming and not the process that is the most important component of the broadcaster's efforts, the public's attention, and the Commission's concern. The only paperwork requirement that will attach to this obligation will be for each new, assignment or transfer applicant, or each applicant proposing to greatly expand its coverage area to file a programming proposal and for each licensee seeking renewal to annually place (on the anniversary date of the grant of authorization for a licensee's first license term and thereafter on the anniversary date on which the station's renewal application would be due for filing) in its public file a listing of five to ten issues responded to with programming together with examples of such programming offered. The list should, in narrative form, contain a brief description of from five to ten issues to which the station paid particular attention with programming, together with a brief description of how the licensee determined each issue to be one facing his community and of how each issue was treated (i.e., a series of public service announcements, a call-in program with the relevant public official, *etc.*). Additionally, the licensee should list the date, time and duration of listed programming utilized to address these issues. We continue to be concerned that stations serve their local communities. This might often mean that stations use locally produced programs to meet their community issue obligation. This does not preclude, however, the use of other programs which address issues of importance to the community.

72. The list required of renewal applicants need not be exhaustive or, indeed, be a complete recitation of either all of the issues covered or all of the programming offered in response to these issues. Rather, the list is intended to provide examples of both. If challenged at renewal, the licensee may point to both listed and unlisted programming to support any claim of compliance with the Commission's requirements. However, any programming upon which the licensee wishes to rely that was not contained on the issues/programs list must be supported by documentation that was prepared reasonably contemporaneously with the subject programming. Unsupported recollection that the station broadcast or probably broadcast other programming will not be considered by the Commission. Such documentation, in addition to the issues/programs list, need not be maintained in the public file. Given the above, ascertainment will not be an issue in either comparative or renewal proceedings. The focus of our inquiry will relate to the programming proposed or offered, as the case may be, and not the process utilized to identify issues. It would be of no concern to the Commission how the applicant or broadcaster became aware of issues facing his community (or, in the appropriate circumstances, his listenership) so long as programming was being proposed, or offered, in response to such issues.

The Commercial Guidelines

The Proposals

73. The Commission's guidelines regulating maximum amounts of commercial minutes per hour are contained in Section 0.281 of our Rules. That section sets commercial limits that prevent the Broadcast Bureau from routinely processing a license application pursuant to its delegation of authority when an applicant proposes more advertising than the applicable guideline, generally 18 minutes of commercials per hour. Most simply, if a licensee proposes less than the guideline he or she avoids full Commission review of the application on that issue.

74. In the *Notice* we proposed four options for change of this procedure, and invited comments and other suggestions. The four proposed options were:

(1) The elimination of all rules and policies dealing with the amount of commercial time and reliance on marketplace forces to regulate levels of commercialization;

(2) The setting of quantitative standards that, if exceeded, would result in some sanction being imposed against the licensee;

(3) The elimination of all rules specific to individual licensees, but reserving Commission power to intercede if heavy levels of commercialization occur market-wide; or

(4) The retention of quantitative guidelines, but only with regard to the Broadcast Bureau's delegation of authority.

In our "preferred options" section we said that it appears that marketplace forces can better determine appropriate commercial levels than can the Commission, and that these forces will limit these levels. Thus, we said that our preference was to eliminate all rules and policies dealing with commercial time and to leave it to the marketplace to determine appropriate advertising amounts and to deter commercial abuses.

Discussion of the Action Being Taken

Introduction

75. The outstanding features of the history of commercial limitations have been the Commission's persistent concern that advertising not become the superseding force in broadcast service and programming, and our concurrent reluctance to set definitive and rigid standards that would cause all broadcasters to operate in the same mold. Because of these sometimes inconsistent concerns it is not surprising that the current restrictions are not part of a definitive rule but instead take the form of processing guidelines allowing the Broadcast Bureau to process applications, with regard to the issue of commercialization, if the licensee's advertising amounts are below the guideline maximums.

76. With processing guidelines rather than rigid rules by which every licensee would be bound absent an express waiver, the current system apparently was designed to give licensees some flexibility in fulfilling their public interest responsibility in the advertising area. The flexibility was to be accomplished largely by allowing licensees who wished to propose more advertising time to submit their proposals for full Commission consideration.[65]

77. Commenters in this proceeding have almost unanimously made the assumption that as a practical matter the guidelines nearly extinguish alternative proposals, and thus have had a greater tendency than might have been intended to discourage diversity and experimentation in the advertising area.[66] Some commenters, including NTIA, have gone so far as to charge that although the limitations are not rules, they have that practical effect. Although it seems unnecessary to assume the merits of such assertions, the Commission fully appreciates that these guidelines are not impotent and here takes seriously its administrative duty to assess their effects and to reconsider their continuing value in our regulatory scheme.

[65] The guidelines themselves provide for some flexibility, allowing an excess of 18 minutes of advertising per hour in response to considerations such as seasonal markets and political campaigns. The guidelines are set out in 47 CFR Sec. 0.281(a)(7) and reprinted in Appendix G.

[66] *See, for example,* Testimony of Andrew Schwartzman, Transcript of September 16, 1980, Panel Discussion, pp. 140, 193–196.

78. Against this background, it appears that our most important line of inquiry is the determination of whether, within the Commission's legislative mandate to regulate in the "public interest, convenience and necessity," the commercial processing guidelines serve appropriate public interest goals, and, if so, whether the guidelines are needed to achieve those goals. One preliminary question is whether the Commission has any power to regulate the advertising practices of licensees. The history of regulation in the advertising area extends from the early days of the Federal Radio Commission,[67] and it appears safe to assume that the Commission's power to consider advertising excesses as part of the broadcast licensing process is without significant question.[68] In fact, as chronicled in the *Notice* in paragraphs 41–50 and reviewed here in Appendix G, the Commission has considered commercial abuses and has imposed administrative penalties from time to time throughout its history.

79. Stated broadly, the public interest concern of the Commission has been to avoid allowing the commercial use of stations to supersede their public interest use. Congress having opted for a private rather than a governmental system of broadcast operations, revenues from commercial time sales are necessary to enable the vast majority of stations to remain in business, and thus provide the service intended. However, the Commission is charged with insuring that the interests of the listening public are being served, as well as the institutional and financial needs of the private license holder. Having allocated a large amount of spectrum space to commercial stations, the Commission can insure that their commercial aspect does not become so important as to frustrate the purpose of the allocations.[69]

80. But the existence of the authority to prevent commercial abuses has never driven the Commission to broadly exercise that authority absent a rather significant showing of interference with the public interest. And a recent but pronounced trend by the Supreme Court granting significant First Amendment protection to "commercial speech" indicates that the Commission's caution in this regard may have been appropriate not only as a matter of administrative and regulatory policy, but also a matter of constitutional policy. The scope and policy implications of the most important "commercial speech" decisions of the Supreme Court are discussed in Appendix G.

81. Against this background of the scope of Commission power, the effect of the processing guidelines, and the historical reluctance of the Commission to be more intrusive than necessary in this regard, the following discussion of elimination of the commercial guidelines is divided into two major sections: (1) the likelihood of excessive commercialization and (2) the potential advantages of elimination. The excessive commercialization section reviews the data and arguments relating to the likelihood of vast increases in commercial time by broadcast stations in light of the competitive pressures facing radio broadcasters. The final section outlines several potential advantages of guideline elimination, including greater commercial flexibility and diversity, less regulatory burden, and greater citizen opportunity for exposure to commercial information.

Commercial Excesses and Marketplace Forces

82. The record of this proceeding provides convincing evidence that marketplace forces have a significant impact on the amount of advertisements aired by commercial radio licensees. These forces appear more effective in curbing advertising excesses than our own rules, and are so significantly less intrusive and less expensive as to convince us to place greater reliance on them in our regulatory scheme.

83. As indicated in Appendix G, the economic data contained both in the *Notice* and in the comments show that most licensees not only meet the present guidelines but also that their pattern of advertising amounts is generally so far below the guidelines as to demonstrate that it is competition and other forces operating in the marketplace, not regulation, that most effectively restricts the advertising loads of radio licensees. The reasons for this situation are in some instances obvious but at other times not so obvious, prompting us to review them in some detail below. But in nearly every case, the trend appears to be in favor of greater and more effective competition in this area rather than against it, giving us substantial assurance that the policy choices we make herein are warranted.

84. First, as detailed in the *Notice*, the number of radio stations has shown a steady and striking increase over the past few decades. In 1934 there were 583 radio stations. In July of 1979, while the *Notice* was in preparation, there were 8,654 stations, and 15 months later there were 8,921 stations. Also, preceding and since adoption of the *Notice*, the Commission has both proposed and approved various plans to increase the use of the radio spectrum and thereby add a significant number of new competing stations.[70]

85. Although the increase in the number of radio outlets indicates a significant increase in the number of competitive outlets for radio advertisers, it may still significantly understate the amount of increased advertising competition encountered by radio licensees. Radio has faced considerable intermarket competition from its inception when it competed with the already established informational outlets of the print media such as newspapers and magazines, and other established advertising media such as outdoor and specialty advertising. While virtually none of these competing advertising vehicles has disappeared, the radio industry has continued to face additional competition, especially from other broadcast-related media such as VHF and UHF television, and now increasingly from cable television. Other such competitors continue to appear on the horizon, not the least of which are the low powered television stations and

[67] Advertising practices were, at least from 1928, considered as part of the "public interest" responsibility of licensees. *See*, 2 FRC Ann. Rep. 166 (1928).

[68] This issue was raised and discussed in considerable detail in a memorandum by the Commission's General Counsel submitted to the Subcommittee on Communications and Power of the House Interstate and Foreign Commerce Committee in December 1963. That memo reviewed the history of the Communications Act, the applicable provisions of the Act, and the applicable judicial and administrative precedent and found that the Commission not only had the power to regulate based on past commercial excesses of licensees, but also the power to limit by rule the commercial amounts allowed broadcasters. That proceeding by the Congress ended without the adoption of legislative guidelines or more clearly specified rule making authority in the area for the Commission. Later, the Commission also declined to adopt such rules, but incorporated the memo into the final *Report and Order* in that proceeding. *Amendment of Part 3 of the Commissions Rules and Regulations with Respect to Advertising on Standard, FM and Television Broadcast Stations*, 36 FCC 45 (1964). For a further history of this subject area, see Appendix G.

[69] One of the first expressions of this idea came in a 1928 statement by the Federal Radio Commission stating its interpretation of the public interest, convenience, or necessity clause of the Federal Radio Act: "While it is true that broadcasting stations in this country are for the most part supported or partially supported by advertisers, broadcasting stations are not given these great privileges by the United States Government for the primary benefit of advertisers. Such benefit as is derived by advertisers must be incidental and entirely secondary to the interest of the public." 2 FRC Ann. Rep. 166 (1928).

[70] *See, e.g., Clear Channel Broadcasting in the am Broadcast Band*, 78 FCC 2d 1345 (1980); and *Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments*, 45 Fed. Reg. 17602, published March 19, 1980.

even direct broadcast satellite communication media.

86. Perhaps both because of and in spite of this increased competition, the radio industry has continued to prosper as an effective medium. Both the *Notice* and several of the comments in this proceeding noted that because commercial radio is almost exclusively an advertiser supported industry, advertisers can in some ways be considered the "buyers" of the radio product. Although this may have some undesirable effects, it was noted in the comments and elsewhere that advertisers have become more sophisticated in their ability to identify potential consumer groups and are more successful at "positioning" their products, *i.e.*, setting them apart from competing products and appealing to specific market segments within the mass consumer market.[71] Advertisers, in turn, have utilized advertising media with compatible specialized audiences.[72]

87. This desire of advertisers for more specifically segmented audiences has been one of the forces that has facilitated the movement of the commercial radio industry, especially in the past decade, toward greater specialization and diversity in program formats, paralleling a somewhat earlier trend of the magazine industry. As both audiences and advertisers sought more specific media for editorial and commercial information, magazines decreased in average circulation but increased in number and specificity while retaining a largely national character.[73] Likewise, a great number of radio stations now deliver more specialized services.

88. Against this background, we view with some skepticism the assertions by some commenters that elimination of our guidelines will lead to widespread increases in the commercial loads of radio stations. Indeed, absent our own intervention—which, of course, would continue to be possible—there appear to be at least three major sources of market pressure that will inhibit commercial abuses: audiences, advertisers, and individual station owners. Together, these appear to create a largely self-regulating system and one wherein correction of commercial abuses by the system's own fores may be more swift and more efficient than those ordinarily imposed by the Commission.

89. The commercial clutter issue was discussed by several of the commenters in this proceeding. Most simply, the idea is that stations with commercial excesses are attractive neither to listeners nor to advertisers. Audiences exposed to highly concentrated ads don't listen attentively, retain less of what they do hear, and become decreasingly responsive to commercial appeals.[74] In other words, each ad tends to get lost in the "clutter" and thus is less effective, leaving advertisers to seek stations with less advertising clutter. Meanwhile, audiences avoid stations with too many commercials. Stations with excessive commercials will often find themselves with smaller audiences and fewer advertisers.[75]

90. Additionally, reply comments of NTIA suggest that station owners who may wish to increase profits will have other incentives to restrict the number of ads they accept. One reason is that increased availability of advertising has a depressing effect on the unit price of *every* ad sold.[76] Thus, although they may be able to increase the number of ads they sell, their total profits will not necessarily increase and, in fact, will likely decrease.

91. One potentially troublesome situation suggested by some commenters is that raised by those stations which may be less susceptible to market forces. These stations are said to have unusual "market power" either because they face little local competition in a small community or because they have a unique format or audience in a larger community. In both cases, these commenters suggest that the stations with this "market power" will increase their levels of advertising time.[77] NTIA cast considerable doubt upon the extent and intensity of such "market power" in both situations. In small markets, there are not typically many purchasers of advertising time.[78] Hence, the ability of find purchasers of additional time is not great. In larger markets, specific format stations apparently face the considerable "cross format" competition discussed in the comment summary in Appendix G, and also competition from other advertising media.

92. These countervailing forces lead us to conclude that "market power" may be more a theoretical concern than an actual one. Our own data in the *Notice*, for example, confirm this conclusion by showing that the lightest advertising loads are usually found in the small markets with little or no local radio competition, and in the large markets with presumably the greatest amount of format specification. In any case, if it becomes obvious that a certain class of stations (*e.g.*, specific format or small market stations) have significant market power and exert that power to the detriment of the public interest, the Commission can always revisit the area in a general inquiry or rulemaking proceeding.

Potential Advantages of Elimination

93. We think that the data and economic analysis indicating that marketplace forces will effectively regulate commercial excesses and the analysis of other issues discussed in Appendix G indicating that elimination of the guidelines will not otherwise harm the public interest provide sufficient cause for us to eliminate the commercial processing guidelines. No government regulation should continue unless it achieves some public interest objective that cannot be achieved without the regulation. Further, we think it would be irresponsible to ignore both the direct and indirect burdens of unnecessary regualtion on this Commission and the broadcasters (and ultimately the public). The most direct of these costs are the unnecessary record keeping, reviewing, and monitoring required by the stations and the Commission pursuant to the regulation. We do not consider these trivial, especially in light of the fact that they undoubtedly contribute to the recent conclusion of the Small Business Administration[79] and the General Accounting Office[80] that the Commission is a major source of government paperwork burdens.

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[71] "The power of [market segmentation] is that in an age of intense competition from the mass market, individual sellers may prosper through developing brands for specific market segments whose needs are imperfectly satisfied by the mass market offerings." Kotler, *Marketing Management: Analysis, Planning and Control*, 1976, p. 144.

[72] *See also, Notice*, paragraphs 71–85.

[73] The trend toward more specificity in magazines has also manifested itself in the emergence of many regional, state, and local magazines. These have also provided competition with radio for advertising dollars.

[74] "The kaleidoscope of clutter in commercials produces confusion among viewers and listeners * * *" Kleppner, *Advertising Procedure*, 7th ed., 1979, p. 118.

[75] *See*, J. R. Dominicle, "The Effects of Commercial Clutter on Radio News," *Journal of Broadcasting*, Spring 1976, at pp. 169–176.

[76] This is only relevant where changes by any one station have a significant effect on the total advertising time available in a market.

[77] That is, they would sell a greater amount of advertising time than would be true in a competitive market. Economic theory suggests that the incentive would be the opposite—the station that has "market power" would want to restrict its advertising time.

[78] This is true both because the numbers of advertisers in small markets is limited, and because the value to listeners of the advertising messages is likely to be small.

[79] Advocacy Paperwork Measurement and Reduction Program, U.S. Small Business Administration, September 30, 1979. *See especially*: Appendix 4.

[80] "Federal Paperwork: Its Impact on Small Business," General Accounting Office, November 17, 1978, p. 43.

94. But the paperwork burden of the commercial guidelines according to the record of this proceeding appears only to be a small part of the burden the guidelines impose. Other burdens are less direct, though no less real, and often take forms that are nearly impossible to measure or to predict accurately. Elimination of the guideline may well reduce these burdens and have substantial advantages. The potential advantages include: (1) the reduction of any anti-competitive impact of the current rules, and (2) an increase in commercial flexibility for broadcasters and diversity for audiences.

95. First, as NTIA and other commenters suggest, the commercial guidelines may have serious economic consequences. NTIA says that to the extent that the commercial guidelines depress the amount of commercial time below the advertiser demand for such time, they may be anticompetitive. And, to the extent that such limits decrease the advertising available to consumers, they can result in higher prices for many consumer products.[81] When commercial levels are restricted, the price of each commercial is likely to rise, thereby restricting its availability to larger and better established businesses. Conversely, an increased supply of advertising time can be expected to decrease unit price, allowing smaller businesses to use the medium to reach potential consumers. This point is made by the National Black Media Coalition (NBMC) which states that the guidelines increase the prices of spot advertisements, "which hurt[s] small businesses generally and Black businesses particularly by making access to radio time more difficult to obtain than would otherwise be the case."[82]

96. NTIA also asserts that the restrictions have adverse competitive effects within the radio broadcasting industry: "Large, well established radio stations can prosper despite limitations on commercial time because they tend to sell time to businesses with large advertising budgets. They thus can compensate for decreased quantity by increasing the cost of commercial time. Small stations (many of which are minority owned) may need quantity, however, to survive."[83] The joint comments of Dow, Lohnes, & Albertson reinforce this point, suggesting that larger commercial loads on minority owned stations could strengthen their revenue base.[84] NBMC suggests that the present guidelines also weaken the "ability of marginal Black stations to attract capital needed to support news and public affairs programming."[85]

97. These observations lead to our second major point here, *i.e.*, without the guidelines stations may show an increased willingness to experiment with advertising formats that might exceed present limits but could serve the public interest. NBMC again provides a major point suggesting that the present guidelines restrict general consumer use of the radio medium, and saying that the guidelines are responsible for the current "absence of programs on which Black consumers may themselves advertise, such as want-ad shows or consumer sell-a-thons."[86] Others note that our present policy discourages the use of "program length commercials" which may be very useful to consumers where products or services cannot be adequately explained in the usual spot advertisement. Although we are mindful that some such advertising procedures are subject to abuse, we think that it is preferable to encourage experimentation and diversity in this area. To encourage such experimentation, we will no longer adhere to our policy against "program length" commercials. We also understand that what might appear to us at first blush as an abuse may be a significant service to a substantial portion of the market's radio audience. Thus, we prefer to allow the interplay of good faith discretion of licensees and the competitive forces of the marketplace to determine which advertising policies better serve the needs and interests of particular listening audiences. If prolonged and blatant excesses occur in defiance of the best interests of the public, then again, we can revisit the area and take appropriate action in another rulemaking proceeding.

98. In summary, the current processing guidelines for maximum commercial amounts are herein eliminated. We expect that this change will promote licensee experimentation in the commercial area, and result in a greater range of commercial radio choices for both advertisers and audiences. Based on information in this record, we believe that commercial levels are more effectively regulated by audience selection and other marketplace forces, and therefore will not consider petitions to deny or informal objections based on allegations that an individual station has offered an "excessive" amount of commercial matter. Should events demonstrate that these competitive forces are not effective for all markets and instances, we can revisit this issue in detail in a general inquiry or rulemaking procedure at a later date.

Program Logs

The Proposals

99. The present program logging requirements applicable to radio stations are found in Sections 73.1800, 73.1810, and 73.1850 of the Commission's Rules. These rules, *inter alia*, specify the general design of the logging system, the manner for entering and correcting data, and the details of how the logs are to be made available to the public. Thus compiled, the logs provide a rather comprehensive record of the level and timing of programming for every specified program type. The *Notice* in paragraph 293 listed three of the possible options for change if the commercial and nonentertainment programming rules were changed as envisioned in this proceeding: (1) eliminate the logs; (2) eliminate the present requirements, but require public inspection of those associated records voluntarily kept by licensees in their ordinary course of business; or (3) keep the present system of logs. The second of these was considered the preferred option, largely because it was believed it would substantially decrease the regulatory burden while allowing public inspection of many important records.

Discussion of the Action Being Taken

100. Perhaps the most important area of agreement among commenters in this rule making was dissatisfaction with the current log keeping requirement. Broadcasters were especially concerned that the logs posed a tremendous record keeping burden, and other commenters such as the National Black Media Coalition often agreed with the broadcasters' contentions that the logs contain very little useful information considering their pervasive and complex nature.

101. The most stunning statistic relied upon by those who discussed the great burden of the logs comes from a General Accounting Office (GAO) report on federal paperwork requirements. That

[81] *See, Virginia State Board of Pharmacy* v. *Virginia Consumers Council, Inc.*, 425 U.S. 748 (1976).

[82] Comments of National Black Media Coalition, p. 17.

[83] Comments of National Telecommunications and Information Administration, p. 8. We also note in this regard that the Justice Department has filed an action against the National Association of Broadcasters alleging that a section of the NAB Code, since revised, dealing with amounts of advertising time violated antitrust laws. *United States* v. *National Association of Broadcasters*, Doc. Number. 79-1549.

[84] Joint comments submitted by Dow, Lohnes, & Albertson, p. 39.

[85] Comments of National Black Media Coalition, p. 17.

[86] *Id.*

GAO report says that compliance with the logging rules for AM and FM stations require a total of 18,233,940 hours per year by the industry.[87] Although the burden seems highly exaggerated, especially in light of the fact that these rules largely operated only to standardize industry record keeping that is necessary in the ordinary course of business, the paperwork burden of the logs nonetheless seems just too great to be taken lightly.

102. Broadcasters also suggest that the current programming logging requirements have the secondary effect of facilitating Commission concentration on technical compliance with its rules rather than on substantial compliance by broadcasters. One such incident, involving a forfeiture against Station WMAL(AM), Washington, D.C., for inaccurate logging of commercial matter, was cited in comments and raised in the panel discussions as an example of the inherent difficulty such detailed rules can create for both the licensees and the Commission. Also, the technical specificity of the rules is said to inhibit stations from developing more efficient means of compiling and retaining the logs, and thus discouraging the use of modern computer based systems of recordkeeping.

103. Program logs as presently required by the Commission will no longer need to be maintained or made publicly available. However, broadcasters still will be required to maintain their public files, which contain much relevant programming information. The information in station public files should be sufficient for routine Commission and public monitoring of the public interest programming performance of licensees. EBS announcements will now all be logged in the radio stations' operating logs.

104. The Commission will not require other records of programming or commercial matter, although some such records may be kept by licensees in the ordinary course of business. As stated in the comments of the National Radio Broadcasters Association (NRBA), stations will continue to maintain commercial records if only for billing purposes. Stations may voluntarily wish to compile and maintain other records, including files on most public service programming. We decline to require such records because to do so would create a burden much greater than warranted by our infrequent need for them. And, as NRBA says:

> There is a difference, however, between records kept voluntarily in format designed for utility, and records kept pursuant to a strict and detailed government regulation. The difference is particularly striking when it is emphasized that a failure to maintain the former may simply result in some lost billings, while failure to maintain the latter can result in a fine, a hearing, or even loss of license.[88]

105. Public inspection files will continue to be maintained by each licensee, and will provide considerable information of value to citizens making public interest programming inquiries of licensees.[89] Items contained therein which have had and will continue to have great value include copies of the license application with all accompanying materials, and the political file. In addition, the most important programming document in the public inspection file will likely be the annual issues-programs list. There, each licensee will list five to ten of the important issues in its service area, examples of its public service programs aired over the past year which responded to those issues, and related information.

106. We wish to stress here that the continued reliance on the public file as an index to the general programming responsibility of licensees does not constitute a significant departure from our present system. As the record in this case reveals, our past program logging requirement has served primarily as an index to the *quantity* of nonentertainment and commercial programming aired by individual licensees, and has been of very little value as an index of performance in the more general programming areas. The Commission has never imposed a general requirement that stations supply extensive textual data on the *content* of their programming, and doing so would raise significant First Amendment questions. Our experience also has shown that such information is not necessary to meet our public interest oversight and other statutory responsibilities. Instead the Commission has developed a history of successful programming oversight through various means, including staff and public investigations. In so doing, the Commission has relied not only on logs or other record keeping devices but on the experience of those with the most extensive knowledge and greatest interest in each station's programming, its listening audience.[90]

107. In sum, while elimination of the logs will decrease the public availability of some quantitative information on program service, that information will now be largely irrelevant based on other rule changes on this *Report and Order*. Other program information, especially that relative to the general public interest responsibilities of licensees, will continue to be available to the public much as in the past.

V. General Issues

The Experimental Option

108. As indicated in the Introduction, in October, 1978, we instructed the staff to study the possibility of deregulating radio on either an experimental or general basis and to prepare recommendations. In the *Notice*, at paragraph 267, it was indicated that, based on the information then available, the experimental option was not the preferred course to take because:

> First, there is a substantial likelihood that the findings we would be seeking from an experiment are already available. We refer to data showing that the marketplace provides more nonentertainment programming and fewer commercials than our current guidelines. Second, and most importantly, because of the nature of such an experiment—one in which the subjects would have a strong interest in achieving a particular outcome—the results would be subject to considerable question. Finally, if we eliminate our noncommercial and nonentertainment program guidelines, we are prepared to take whatever steps are necessary in the public interest should the marketplace fail. We invite comments on any course of action that might be taken with respect to any experiment.

Several commenters took the opportunity to address the issue of an experimental option. In general, those who favored deregulation asserted there was no need for an experimental period; those who opposed deregulation asserted that if deregulation were to occur it should be implemented on an experimental basis. Unfortunately, none of the commenters addressed the substance of the arguments put forth in the *Notice*. It therefore appears that the findings still hold that the experimental option should be rejected.

Monitoring Deregulation

109. The steps we are taking here in no way will reduce our responsibility, ability, and determination to provide a regulatory framework that assures radio broadcast programming in the public interest. We shall continue to be concerned that broadcasters be responsive to the public. It is our expectation that the added flexibility that broadcasters will have to respond

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[87] "Federal Paperwork: Its Impact on Small Business," General Accounting Office, November 17, 1978, p. 43.

[88] Comments of National Radio Broadcasters Association, p. 24.

[89] The public inspection file rules are contained in Section 73.3526.

[90] *See, e.g., Alan C. Phelps*, 21 F.C.C. 2d 12 (1969).

to their audiences will indeed produce such results. There remains the possibility that, at least in some isolated cases, this might not happen. Fortunately, there are built-in mechanisms to allow us to detect such an occurrence. Part of the public interest obligation of any licensee is to address issues of importance to the community as a whole or, in larger markets with many stations, to the station's listenership. If a station is not addressing issues, citizens will be able to file complaints or petitions to deny. We continue to encourage citizens to meet with their local broadcasters to discuss their concerns, but if they do not receive satisfaction, they should take the complaint or petition to deny routes. These long standing channels will allow the Commission to continue to monitor the performance of licensees, and indeed will better indicate the responsiveness of licensees than do fixed guidelines.

110. Citizens' complaints will also provide the basis for monitoring commercialization policy. Although there will be some additional burden placed on citizens to undertake such monitoring, in fact highest levels of commercialization tend to occur during predictable peak hours and therefore the burden is not overwhelming. The Commission in general will not be concerned with isolated incidents of stations with high levels of commercialization. If, however, there tends to be a pattern of serious abuse among certain classes of stations, the Commission could revisit the area through an inquiry or rulemaking proceeding. In monitoring such problem areas, the Commission might survey particular markets and use the data as the basis for fashioning appropriate remedies.

Administration of Deregulation

111. The policies enunciated herein, along with the relevant rule changes set forth in Appendix A, will become effective thirty days from the publication of this document in the **Federal Register**, unless a stay of the effectiveness is requested and granted. After the effective date of these policies, application for new stations, as well as applications for the assignment, transfer, renewal and/or modification of existing stations, will be modified as set forth in Appendix J, and all such applicants will be required to file only the information requested therein.

New Applications

112. Because the policies enunciated herein will affect the future operation of radio broadcast stations, we believe that they should also be applied to applications filed before the effective date of this *Report and Order* but still before the Commission for consideration.[91] Therefore, upon the effective date of this *Report and Order*, those portions of applications for new facilities which have been obviated by this action will be considered immaterial to the Commission's determination of that application. We will not physically return those portions of the applications, and it will not be necessary for applicants to file amendments to conform with the revised wording of the applicable form. For example, the ascertainment and programming portions of applications already on file should adequately respond to the revised questions. If additional information is needed, especially with regard to proposed programming, the Commission's staff will contact the applicant. Thus, modifications of applications already on file will not be necessary.

113. We further believe that when these policies become effective they should apply to pending applications for new facilities that have been designated for hearing at all stages of the hearing process. Therefore, if issues which are obviated by this action have been specified and/or tried, Administrative Law Judges and the Review Board are directed to resolve those issues in accordance with the policies enunciated herein. Thus, the issues should be deleted in either an interlocutory order or in the decision, as appropriate. In directing this course, we wish to emphasize no intention to foreclose consideration of related issues not directly affected herein. Thus, issues concerning alleged misrepresentations relating to ascertainment will not be extinguished. However, there would be no need to resolve issues on the sufficiency of ascertainment based upon alleged failures to follow the steps detailed in the *Primer*.[92]

Renewal Applications

114. The administration of these policies to renewal applications is complicated by the fact that such applications encompass both the licensee's past performance and proposals for the future. Certainly, the portions of renewal applications which relate to future proposals should be treated in the same manner as new applications. Accordingly, the procedures and directions set forth above will govern the consideration of the prospective portions of renewal applications.[93]

115. The retrospective portions of renewal applications and the seller's portion of assignment and transfer applications relate to conduct during the time when the licensee was expected to adhere to rules and policies which have been eliminated herein. It is not our intention to relieve licensees of those obligations after the fact. On the other hand, we do not believe it would be reasonable to continue to require licensees to file information on the ever diminishing portion of the past license term which was governed by the old policies. Accordingly, we will continue to require the filing of, and we will consider, the retrospective portions of renewal applications until the effective date of the *Report and Order*. Thereafter, licensees will file renewal applications in accordance with the reformed application described in Appendix J. Thus, although we will not require routine filing of materials related to past ascertainment, commercialization or programming performance, these issues could be raised in a petition to deny or on the Commission's own motion. This is the case because violations of a past regulation at the time when it was in effect may be relevant to a licensee's qualifications to retain its license, even if the subject regulation was modified or eliminated in this proceeding.

VI. Conclusion

116. Some fifty-four years ago, during Congressional debate on what was to become the Radio Act of 1927, precursor to the Communications Act of 1934, Congressman Free of California stated:

> I think there is one monopoly in this thing and I think it is the individual listener. The minute he turns off his set and refuses to listen, just that minute the radio is gone so far as the sellers of sets are concerned.[94] Because

[91] These procedures cover application for new facilities, applications for modifications of existing facilities and the buyer's portions of applications for assignment or transfer of existing stations.

[92] In this regard we note that for "new" applicants, ascertainment is a prospective process by which the applicant determines the community problems it will cover in its programming. Thus, the mere failure to follow previously prescribed procedures would no longer be relevant.

[93] This will also apply to the seller's portion of assignment and transfer applications.

[94] This referred to the so-called "Radio Trust," some of whose members were engaged in the manufacture of receivers and transmitters as well as in broadcasting itself. It was fear of the potential monopolistic aspects of the Radio Trust that was in large measure responsible for the adoption of the Radio Act, and, indeed, the adoption of a requirement that stations operate in the public interest rather than in their own interest. As the Supreme Court has stated, "Congress (in adopting the Act) moved under the spur of widespread fear that in the absence of governmental control the public interest might be subordinated to monopolistic domination in the broadcasting field."

of that fact they must put on good programs; they must maintain the public interest because the public is their asset. When they sell time to an advertiser they have got to show that you and other people are listening, and if they cannot show that they cannot get money for broadcasting.[95]

117. We believe that given conditions in the radio industry, it is time to heed that sentiment and to reduce the regulatory role played by Commission policies and rules, and to permit the discipline of the marketplace to play a more prominent role. It is our conclusion that the regulations that we are retaining and the functioning of the marketplace will result in service in the public interest that is more adaptable to changes in consumer preferences and at less financial cost and with less regulatory burden. While savings to the public, the Commission and broadcasters cannot be accurately or exactly quantified, it is only reasonable to assume that if any reduction in costs to broadcasters and/or the Commission (and accordingly, and foremost, to the public) is achieved by the action taken herein, with no degradation in service, the public interest will be well served. It may well be that the removal of these regulations will allow broadcasters to be *more* responsive to listeners, thus improving service while reducing costs.

118. Our role will continue to be one of oversight. But in most instances we believe that generalized requirements that permit licensees to respond to market forces within broad parameters are warrented in radio broadcasting. Simply stated, the large number of stations in operation, structural measures, and listenership demand for certain types of program (and for limitations on other types of programming, to-wit: commercials) provide an excellent environment in which to move away from the content/conduct type of regulation that may have been appropriate for other times, but that is no longer necessary in the context of radio broadcasting to assure operation in the public interest.

119. Accordingly, *It is ordered*, That Sections 0.281, 73.112, 73.282, 73.1212, 73.1225, 73.1800, 73.1810, 73.1840, 73.1850, and 73.3526 of the Commission's Rules are amended as set forth in Appendix A.

120. *It is further ordered*, That the *Ascertainment Primer* and the *Renewal Primer* shall no longer be applicable to commercial radio broadcast applicants or licensees and that in their place the above stated policy regarding ascertainment of issues shall apply to such stations.

121. *It is further ordered*, That FCC Forms 301, 303–R, 314, and 315 are amended as set forth in Appendix J, *infra*.

122. Authority for the adoption of this *Order* is contained in Sections 4(i), 5(d), and 303(r) of the Communications Act of 1934, as amended, and Section 1.412(b)(5) of the Commission's Rules.

123. *It is further ordered*, That this action shall become effective on April 3, 1981.

124. For further information concerning this *Order*, contact Roger D. Holberg, Broadcast Bureau, (202) 632–7792.

(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

1. 47 CFR Part 0 is amended by removing § 0.281(a)(7)(i)–(iii), redesignating § 0.281(a)(7)(iv) as 0.281(a)(7)(i) and revising that paragraph and §§ 0.281(a)(8) and 0.281(a)(10), as follows:

§ 0.281 Authority delegated.

* * * * *

(a) * * *

(7) *Programming: commercial matter.*

(i) Commercial TV applicants for a new station, or assignment or transfer, or renewal of license, proposing to exceed 16 minutes of commercial matter per hour, or during periods of high demand for political advertising, providing for exceptions permitting in excess of 20 minutes of commercial matter per hour during 10% or more of the station's total weekly hours of operation.

(8) *Programming: program content and ascertainment of community needs.*

(i) Applications for new stations or assignments and transfers.

(A) Commercial AM and FM proposals of applicants for new stations and of assignees and transferees that have not submitted a narrative statement of their proposed programming, commercial TV proposals of applicants for new stations and of assignees and transferees (except those made by UHF stations not affiliated with major networks) which project for the hours 6:00 a.m. to 12:00 midnight less than the indicated percentages in one or more of the following categories: 5% total local programming; 5% informational (news plus public affairs) programming; and 10% total non-entertainment programming.

(B) Commercial TV proposals of applicants for new stations and of assignees or transferees which contain substantial ascertainment defects which, for any reason, cannot be resolved by further staff inquiry or action. (See 1971 Ascertainment Primer: 27 FCC 2d 650 (1971), 36 FR 4092).

(ii) Applications for renewal.

(A) Commercial TV proposals (except those made by UHF stations not affiliated with major networks) which project for the hours 6:00 a.m. to 12:00 midnight less than the indicated percentages in one or more of the following categories: 5% total local programming; 5% informational (news plus public affairs) programming; and 10% total non-entertainment programming.

(B) Commercial TV proposals containing substantial ascertainment defects which, for any reason, cannot be resolved by further staff inquiry or action. (See 1976 Ascertainment Primer: 57 F.C.C. 2d 418 (1975), *recon. granted in part*, 61 F.C.C. 2d 1 (1976)).

(9) * * *

(10) *Programming: promise versus performance.*

(i) Applications for assignments and transfers.

TV applications for assignment or transfer which vary substantially from the assignor's or transferor's prior representations with respect to commercial practices (as set forth in paragraph (a)(7) of this Section), or from the programming categories (as set forth in paragraph (a)(8) of this Section), and for which variation there is lacking, in the judgment of Broadcast Bureau, adequate justification in the public interest.

(ii) Applications for renewal.

Commercial TV applications for renewal which vary substantially from prior representations with respect to commercial practices (as set forth in paragraph (a)(7) of this Section), or from the programming categories set forth in paragraph (a)(8) of this Section, and for which variation there is lacking, in the judgment of the Broadcast Bureau, adequate justification in the public interest.

* * * * *

2. 47 CFR Part 73 is amended by removing from "Contents—Part 73" and "Alphabetical Index—Part 73" the following entries:

Sec.
73.112 Program log.
73.282 Program log.

§ 73.112 [Removed]

3. 47 CFR Part 73 is amended by removing § 73.112 in its entirety.

Federal Communications Commission v. *Pottsville Broadcasting Company*, 309 U.S. 134, 137 (1940).

[95] 67 Cong. Rec. 5491 (1926).

§ 73.282 [Removed]

4. 47 CFR Part 73 is amended by removing § 73.282 in its entirety.

5. 47 CFR Part 73 is amended by revising § 73.1212(g)(2) and 73.1212(g)(3) as follows:

§ 73.1212 Sponsorship identification; list retention; related requirements.

* * * * *

(g) * * *

(1) * * *

(2) Attach the list to the program log, if the station is required to keep such log, for the day when the broadcast was made; or retain separately if the station is not required to keep program logs, and

(3) Make this list available to members of the public who have a legitimate interest in obtaining the information contained in the list. Such list must be retained for a period of two years after broadcast.

* * * * *

6.47 CFR Part 73 is amended by revising § 73.1225(c), and by adding paragraph (d) as follows:

§ 73.1225 Station inspections by FCC.

* * * * *

(c) The following records shall be made available upon request by representatives of the FCC. (1) *For commercial and noncommercial AM stations:*

(i) Equipment performance measurements required by § 73.47.

(ii) Copy of the most recent antenna resistance or common-point impedance measurements submitted to the FCC.

(iii) Copy of the most recent field strength measurements made to establish performance of directional antennas required by § 73.151.

(iv) Copy of the partial and skeleton directional antenna proofs of performance as directed by § 73.154 and made pursuant to the following requirements:

(A) Section 73.67, Remote control operation.

(B) Section 73.68, Sampling systems for antenna monitors.

(C) Section 73.69, Antenna monitors.

(D) Section 73.93, Operator requirements.

(v) Chief operator agreements and contracts with first-class operators employed part-time for maintenance duties.

(2) *For commercial and noncommercial FM stations.*

(i) Equipment performance measurements required by § 73.254 and § 73.554.

(ii) Chief operator agreements and contracts with first-class operators employed part-time for maintenance duties.

(d) The following logs shall be made available upon request by representatives of the FCC:

(1) *For commercial AM and FM stations:*

(i) Operating and maintenance logs.

(2) *For noncommercial educational AM and FM stations:*

(i) Program, operating and maintenance logs.

(3) *For commercial and noncommercial educational TV stations:*

(i) Program, operating and maintenance logs.

7. 47 CFR Part 73 is amended by revising § 73.1800(a) to read as follows:

§ 73.1800 General requirements relating to logs.

(a) The licensee of each station shall maintain logs as set forth in §§ 73.1810, 73.1820 and 73.1830. Each log shall be kept by the station employee or employees (or contract operator) competent to do so, having actual knowledge of the facts required. The person keeping the log must make entries that accurately reflect the operation of the station. In the case of program and operating logs, the employee shall sign the appropriate log when starting duty and again when going off duty and setting forth the time of each. In the case of maintenance logs, the employee shall sign the log upon completion of the required maintenance and inspection entries. When the employee keeping a program or operating log signs it upon going off duty or completing maintenance log entries, that person attests to the fact that the log, with any corrections or additions made before it was signed, is an accurate representation of what transpired.

* * * * *

8. 47 CFR Part 73 is amended by revising § 73.1810(a) to read as follows:

§ 73.1810 Program logs.

Commercial Stations

(a) Commercial TV stations shall keep a program log in accordance with the provisions of § 73.1800 for each broadcasting day which, in this context, means from the station's sign-on to its sign-off.

(1) Commercial AM and FM stations are *not* required to keep program logs.

(b) * * *

* * * * *

9. 47 CFR Part 73 is amended by revising § 73.1840 to read as follows:

§ 73.1840 Retention of logs

Any log required to be kept by station licensees shall be retained by them for a period of 2 years. However, logs involving communications incident to a disaster or which include communications incident to or involved in an investigation by the FCC and about which the licensee has been notified, shall be retained by the licensee until specifically authorized in writing by the FCC to destroy them. Logs incident to or involved in any claim or complaint of which the licensee has notice shall be retained by the licensee until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for filing of suits upon such claims.

10. 47 CFR Part 73 is amended by revising § 73.1850(a) to read as follows:

§ 73.1850 Public inspection of program logs.

(a) The program logs of commercial TV and noncommercial AM, FM and TV licensees shall be made available for public inspection and reproduction at a location convenient and accessible to the residents of the community to which the station is licensed. All such requests for inspection shall be subject to the procedural requirements in paragraph (b) below. Where good cause exists, the licensee may refuse to permit such inspection. (See paragraph 64, the *Public and Broadcasting Procedural Manual.)* The licensee shall remain responsible for the safekeeping of the logs when permitting inspections.

* * * * *

11. Section 73.3526 of 47 CFR Part 73 is amended by revising the introductory clauses of (a), (a)(11), (a)(12) and (e); by revising (a)(10) and Note 2 of (a)(12)(ii); and by adding a new (a)(14) as follows:

§ 73.3526 Local public inspection file of commercial stations.

(a) *Records to be maintained.* Every applicant for a construction permit for a new station in the commercial broadcast services shall maintain for public inspection a file containing the material described in (1) of this paragraph. Every permittee or licensee of an AM, FM or TV station in the commercial broadcast services shall maintain for public inspection a file containing the material described in (1), (2), (3), (4), (5), (6), (7) and (9) of this paragraph. In addition, every permittee or licensee of a TV station shall maintain for public inspection a file containing the material described in (8), (11), (12) and (13) of this paragraph; every permittee or licensee of an AM or FM station shall maintain for public inspection a file containing material described in (14) of this

paragraph. The material to be contained in the file is as follows:

* * * * *

(10) Although not part of the regular file for public inspection, prorgam logs for TV stations will be available for public inspection under the circumstances set forth in § 73.1850 and discussed in the Public and Broadcasting Procedural Manual; Revised Edition.

(11) Each licensee or permittee of a commercially operated TV station (except as provided in Note 2, below) shall place in the station's public inspection file appropriate documentation relating to its efforts to interview a representative cross-section of community leaders within its service area to ascertain community problems and needs. Such documentation shall be placed in the station's public inspection file within a reasonable time after the date of completion of each interview, but in no event later than the due date for filing the station's application for renewal of license and shall include:

(i) * * *

* * * * *

(12) Each licensee or permittee of a commercially operated TV station (except as provided in Note 2, below) shall place in the station's public inspection file documentation relating to its efforts to consult with a roughly random sample of members of the general public within its city of license to ascertain community problems and needs. Such documentation shall consist of:

* * * * *

Note 2.—Subparagraphs (a)(11) and (a)(12) above shall not apply to commercial TV stations within cities of license which (1) have a population, according to the immediately preceding decennial U.S. Census, of 10,000 persons or less; and (2) and are located outside all Standard Metropolitan Statistical Areas (SMSA's as defined by the Federal Bureau of the Census).

* * * * *

(14) To be placed in each commercial radio station's public inspection file every year on the anniversary date of the grant of authorization (for new licensees' first license term) and thereafter on the anniversary date on which the station's renewal application would be due for filing with the FCC, a list of five to ten issues to which the station paid particular attention with programming during the preceding year. A brief narrative should be included describing how the licensee determined the issues to be ones facing its community, and how each issue was treated (*i.e.*, a series of public service announcements, call-in programs, etc.). In addition, illustrative examples of programs responsive to each issue should be provided, including the time, date and duration of each such program.

* * * * *

(e) *Period of retention.* The records specified in paragraph (a)(4) of this Section shall be retained for periods specified in § 73.1940 (2 years). The manual specified in paragraph (a)(6) of this Section shall be retained indefinitely. The letters specified in paragraph (a)(7) of this Section shall be retained for the period specified in § 73.1202 (3 years). The records specified in paragraphs (a) (1), (2), (3), (5), (8), (9), (11) and (12) of this Section shall be retained as follows:

* * * * *

12. The "Primer of Ascertainment of Community Problems by Broadcast Renewal Applicants," Appendix B, First Report and Order, Docket No. 19715, 41 FR 1371, January 7, 1976, is amended to revise the "Introduction" and add a new Question 34 and headnote thereto. As amended, the "Introduction" reads as follows:

Introduction

The principal ingredient of a licensee's obligation to operate in the public interest is the diligent, positive and continuing effort by the licensee to discover and fulfill the problems, needs and interests of the public within the station's service area. Statement of Policy Re: Commission En Banc Programming Inquiry, 25 Fed. Reg. 7291, 20 RR 1901 (1960). In the fulfillment of this obligation, the licensee must consult with leaders who represent the interests of the community and members of the general public who receive the station's signal. 1960 Programming Policy Statement, *supra*. This Primer provides guidelines for the licensee of a commercial TV station to follow in conducting these consultations. (The guidelines do not apply to commercial AM and FM licensees. See Question 34 below.) The types of consultations required can best be summarized in a question and answer format.

* * * * *

E. Applicability

QUESTION 34—Have the Primer guidelines been eliminated for commercial AM and FM stations?

ANSWER: Yes. The guidelines were eliminated by a Report and Order in BC Docket No. 79-219, adopted January 14, 1981, and released 1981; 46 FR ———. However, a commercial AM or FM licensee has the obligation to determine issues facing its community and to broadcast programming responsive to such issues. Any means reasonably calculated to apprise the licensee of community issues may be used for this. A licensee may determine which issues to cover based upon the other radio services available in its community. A list of from 5 to 10 community issues and the programming broadcast by a station in response to those issues must be placed in the licensee's local public inspection file annually by the anniversary date of the deadline for filing the renewal application.

13. The "Primer on Ascertainment of Community Problems by Broadcast Applicants," Appendix B, First Report and Order, Docket No. 18774, 36 FR, March 3, 1971, is amended to revise Answer 1 to read as follows:

A. General

* * * * *

ANSWER: With applications for:

a. Construction permit for new television stations;

b. Construction permit for a change in authorized facilities when the television station's proposed field intensity contour (Grade B contour) encompasses a new area that is equal to or greater than 50 percent of the area within the authorized field intensity contours;

c. Construction permit or modification of license to change television station location;

* * * * *

e. The assignee's or transferee's portion of applications for assignment of television license or transfer of control, except in *pro forma* cases where Form 316 is appropriate. Educational organizations filing applications for educational noncommercial stations and applicants for commercial AM and FM radio stations are exempt from the provisions of this Primer.

Appendix B.—Radio Deregulation Panels

Panel I—September 15, 1980

National Association of Broadcasters—Erwin Krasnow
National Citizens Committee for Broadcasting—Samuel A. Simon
American Broadcasting Companies, Inc.—Robert W. Coll
National Public Radio—Walda Roseman
National Telecommunications and Information Administration—John F. Lyons
WNCN Listeners Guild—Kristen Booth Glen
Department of Communications of the United States Catholic Conference—Father Donald Mathews, S. J.
United States Department of Justice—Carolyn Alden
National Black Media Coalition—Pluria Marshall

Panel II—September 16, 1980

Law Firm of Dow, Lohnes and Albertson—Thomas H. Wall
Citizens Communications Center—Nolan A. Bowie
National Association of Black Owned Broadcasters—Nate Boyer
Office of Communication of the United Church of Christ—Dr. Ralph Jennings
National Radio Broadcasters Association—Thomas Schattenfield
Media Access Project—Andrew J. Schwartzman
United States Office of Consumer Assistance—Mark Goldberg
American Civil Liberties Union—Charles M. Firestone

Appendix C

	Individuals	Broadcast groups, organizations, and individuals	Religious groups, organizations, and individuals	All others	Totals
Formal Comments					
For	257	1,125	10	23	1,415
Against	1,132	5	499	171	1,807
Mixed	6	9	6	4	25
Totals	1,395	1,139	515	198	3,247
Informal Comments					
For	163	407	1	83	654
Against	14,945	2	779	279	16,005
Mixed	91	0	3	29	123
Totals	15,199	409	783	391	16,782
Formal Reply Comments					
For	0	62	0	0	62
Against	4	0	19	18	41
Mixed	0	3	1	3	7
Totals	4	65	20	21	110
Informal Reply Comments					
For	2	119	0	1	122
Against	1,677	0	98	37	1,812
Mixed	0	0	0	0	0
Totals	1,679	119	98	38	1,934

Appendix D.—The Economic Model and Discussion of Comments Filed Relative to it

1. As the text of the *Report and Order* indicates, we have relied partially but not entirely, on the economic model presented in the *Notice* in reaching our final decision. This has led us to permit licensees to be able to take into account the programming of other stations in their markets when determining which issues to address in meeting their public interest obligations. Each licensee nonetheless will have its own individual obligation to provide some programming responsive to community issues. As will be discussed in greater detail below, we have not rejected a pure marketplace solution because of any inherent weakness in the marketplace theory as applied to broadcasting. Rather, we have determined from a reading of the full record that the implementation of a pure market approach would not be in the public interest at this time due to administrative complexities and possible legal difficulties involving individual vs. market-wide responsibilities.[1] Nonetheless, since we do rely on the marketplace theory for part of our decision, it is appropriate to discuss the comments concerning the economic model.

2. We received many comments on the economic analysis that served as a basis for the deregulation proposal. These comments fell into two general categories. First, and most fundamental, there are comments directed toward the economic model itself.[2] Second, there are comments on and additional empirical studies related to, our proposals regarding nonentertainment programming, ascertainment, commercial time, and logging requirements. The first set of comments, addressing the basic economic model outlined in the *Notice*, will be discussed in this appendix. The other set of comments will be discussed in the appendices that address the particular proposals for rule changes.[3] Before examining specific comments it is useful briefly to summarize both the rationale for our use of a market model in the *Notice* and the assumptions underlying that model.

The Economic Model

3. There are three basic systems for the allocation of resources—direct government operation, government regulated private operation, and unregulated private operation. None of these systems is perfect. The United States has chosen the middle ground for its broadcast system in an attempt to exploit the advantages of both marketplace forces and government intervention. Because of both First Amendment considerations and a disinclination toward centralized decisionmaking, however, there has been a general preference for the avoidance of government intrusion wherever the marketplace by itself could attain public interest objectives.

4. Although the public interest has many elements, the primary objective is broadcast service responsive to the wants and needs of the public—what economists call consumer satisfaction. In this regard, one of the major responsibilities of the FCC is to determine what kind of regulatory framework would yield a broadcast system most responsive to the public's diverse wants and needs. The Commission, of course, can only act as a catalyst in the provision of such service; it is the licensees that actually offer the programming. The Commission's limited role in this regard is to determine what actions it should—or should not—take to foster responsive programming. Accordingly, the key issues to consider in this proceeding are who is best able to determine the wants and needs of radio audiences and, once these wants and needs are recognized, what forces are most likely to lead licensees to be responsive to them. The economic model suggests that, given the status of radio broadcasting today, the marketplace and competitive forces are more likely to attain these public interest objectives than are regulatory guidelines and procedures. Universally applied rules or guidelines cannot take into account differences among communities; therefore, they often will be unresponsive to the wants or needs of the public in individual markets. Also, the administrative procedures that must be followed to change rules in light of changes in circumstance are often cumbersome.

5. In general, competitive markets are responsive to consumer wants because there are natural forces (*i.e.*, the profit motive) that induce the entrepreneur to discover what consumers want and that penalize him if he fails to respond to these wants. While advertiser-supported systems utilize different adjustment mechanisms than direct-pay systems, the same basic forces are at work in each. Commercial broadcasters, like all businessmen, seek to maximize profits. They receive revenues from advertisers, who want to reach as many *receptive* consumers as possible with their commercial messages. To maximize the number of receptive listeners, the advertiser (and hence the broadcaster) is concerned with both audience size and certain audience characteristics. Two key audience characteristics are income and brand consciousness. That is, other things being equal, advertisers prefer larger audiences, higher income audiences, and more brand conscious audiences. In addition, advertisers prefer audiences that could be expected to have a special affinity for their product, perhaps due to some age or ethnic characteristic. In general, increasing the level of any of these factors will increase the value to the advertiser of his commercial message and will therefore allow the broadcaster to increase his advertising rate. However, to the extent that any two of these factors are inversely related, they may tend to counterbalance on another. In particular, as will be discussed in paragraphs 34–35, *infra*, income and brand consciousness tend to be inversely related—higher income households tend to be less easily swayed than lower income households by brand names and more likely to purchase generic products. As a result, advertisers and broadcasters are not likely to target only high income audiences (unless they are trying to sell luxury items). In order to reach as many receptive consumers as possible with their commercial messages, advertisers demand that broadcasters provide the programming that is most sought by listeners. In pursuing this, licensees will program to maximize either total audience or a specific targeted group.

6. The exact strategy employed by the individual broadcaster to maximize his profits will vary according to his particular market situation. In small markets, where there is a small potential total audience and where there are few competing broadcasters, both advertisers and licensees will have the incentive to reach as broad an audience as possible with programming of general interest. In large markets, where there are diverse audiences and many competing broadcasters, an advertiser will want to target that portion of the total potential audience that is most likely to be interested in his product rather than expending money

[1] This proceeding was undertaken with the assumption that all current statutory requirements must be taken as given. We do believe, however, that the analysis and information developed in this proceeding would be useful for any legislative efforts that Congress might consider. In particular, the general marketplace approach to radio regulation has been placed under close scrutiny. No fundamental weaknesses were exposed, though possible administrative or legal difficulties that would arise if its implementation were indicated. Some of these difficulties stem from the current particulars of the Communications Act. Should Congress consider legislative action, in this direction, the full record of this proceeding would provide a good initial basis for decisionmaking.

[2] Including comments regarding the data.

[3] Because of the volume of comments, we cannot address each comment individually. Rather, representative comments are addressed. Also, in order to avoid redundancy, generally we have not repeated the arguments of those commenters whose viewpoints were adopted and are therefore already found in the text of the Report and Order. In this appendix we focus on criticisms of the economic model.

for non-receptive listeners. Hence, he will seek out the broadcaster whose programming is most likely to attract the desired audience segment. In markets with many stations, the individual licensee cannot expect to capture a large share of the total audience; thus, he will have an incentive to seek out specialized audiences. As market size and the number of competitors increases, there will be a tendency on the part of both advertisers and broadcasters to seek smaller, more narrowly defined audiences. The broadcaster who fails to attract an audience will lose advertising revenues. In this fashion, licensees responding to natural market forces will have every motivation to be responsive to the demands of the public. Although advertisers provide the direct source of station revenues in order to attract advertisers licensees must attract listening audiences. Ultimately, the listening public is the arbiter of programming choices.

7. Advertiser-supported markets differ from direct-pay markets in that they provide no pricing mechanism to measure the intensity of demand of individual listeners for particular programming. Hence, audience size may be more important than strenghth of demand. For example, a program that is strongly desired by a small audience may be less likely to be aired than a program that is weakly desired by a slightly larger audience, although consumer satisfaction might be greater from the former. However, as indicated in the economic literature that addresses this issue,[4] the negative public interest consequences are largely eliminated as the number of stations in the market increases. As the number of stations increases, each station can expect to reach a smaller audience share. In making its programming decisions, the licensee is more likely to seek specialized audiences. In this manner, small audiences with intense demands are increasingly likely to have their demands met as the number of stations increases. The data in the Tables appended to the *Notice* provide corroborating empirical evidence that just such a phenomenon has occurred in commerical broadcast radio.

8. Small broadcast markets behave much like all small markets. In markets that can support only one or a few stations, the licensee—like its furniture store—or restaurant-owner counterpart—will tend to cater to general tastes rather than to specialized interests. In fact, the specialized radio-listening public in these small markets generally has an advantage over small market consumers of other specialties, such as restaurant meals. The costs to the listener for continued reception of specialized programming from a distant source may be quite low—to one-time cost of the purchase and installation of a good receiver or antenna. In contrast, the seeker of gourmet food would have to pay the travel costs to the distant restaurant *each time* he sought such a meal.

9. In most cases, what the public needs it will demand.[5] It has been alleged, however, that there are situations in which the public either fails to recognize or to reveal its needs or chooses not to demand services that address them. For example, there may be a societal need for a well-informed citizenry, and thus for nonentertainment broadcast programming, that is nonetheless not heavily demanded. Presumably, such needs are not specific to each individual, but rather relate to society as a whole. Therefore individuals may fail to take them into account when making their marketplace decisions. In such situations, the marketplace might fail to respond to these needs and government intervention might be necessary to assure that the public interest is met. This argument has been raised specifically in defense of maintaining nonentertainment programming guidelines.

10. In our *Notice*, we explicitly noted that services responsive to needs might not be demanded by the public. More exactly, we questioned whether relevant programming would be demanded at a level sufficient to meet the needs of the public. There was a lengthy discussion of whether regulation would be appropriate or whether reliance on marketplace forces would be superior to regulatory intervention. We noted that such regulation of necessity would be standardized nationwide, would be relatively inflexible, and would be likely to impose costs without compensating benefits. These problems combined with the fact that other mechanisms exist to deal with the same problem (e.g., National Public Radio, the Fairness Doctrine) led us to the conclusion that the Commission should shy away from intervention unless the market produced a demonstrable shortfall of programming responsive to the needs of the public. The very extensive data collection and analysis presented in the *Notice* suggested that, in fact, marketplace forces would provide such programming. The one area of possible concern involved public affairs programming. With this brief recapitulation of the underlying economic model, we now address the specific criticisms of it made by commenters.

Criticisms of the Model

11. A number of commenters criticized the proposed rulemaking on the ground that the assumptions underlying the economic model are not consistent with the conditions found in the radio broadcasting industry. One set of criticisms was based on the argument that the radio spectrum is a "unique" resource, which, because of this "uniqueness," cannot be allocated in a market.[6] Related to this were concerns regarding the role of scarcity in the rulemaking proceeding. Second, at least one commenter argued that in an advertiser-supported system there is no market for radio programming; there is only a market for advertising time.[7] Third, many commenters argued that consumer satisfaction is not the appropriate criterion for judging performance of radio markets.[8] Rather, they argue, public "need" as distinguished from public "want" should be the criterion for evaluating performance of the industry. Also, some argue that, even assuming the model is in some sense an appropriate way to view the radio broadcast market, the market is not responsive to consumer (listener) wants.[9] At the same time, several other commenters expressed the view that the economic policy model outlined in the *Notice* was appropriate.[10]

The Radio Spectrum as a "Unique" Resource

12. Several commenters argue that because spectrum is either "unique" or scarce, a market is unable to function in the manner assumed by the *Notice*. Dr. Dallas Smythe, writing on behalf of the United Church of Christ, argues that radio regulation developed as a result of the "peculiarly public property" attributes of the electromagnetic spectrum.[11] Smythe asserts that:

> The unique characteristics are: (1) The radio spectrum's original and still its principal use is the act of *sharing* information between transmitter and receiver, *i.e.*, communication. Minor exceptions prove the rule, *e.g.*, radar, geodetic exploration. For no other resource is the principal function the transmission *and* reception of information or anything else. (2) For one nation or class of user to use it, all nations and classes of users must also be able to use it, with equipment built to compatible standards. World-wide cooperation is therefore necessary for the radio spectrum to be used by anyone and everyone. (3) It is non-depletable and self-renewing. To be sure, there is interference between users (which international regulation minimizes), but this "pollution" disappears immediately the interfering transmitters cease interfering. (sic) (4) Measurement of rights to use the radio spectrum are probabilistic rather than discretely specifiable.[12] This alone is a major bar to establishment of a free market in transferable rights to use the spectrum. (5)

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[4] For a brief review of that literature, see paragraphs 140–150 in the *Notice* in this proceeding.

[5] For example, even though leafy green vegetables generally lack the popularity of ice cream, they are demanded because they provide essential vitamins. Or, those essential vitamins are demanded in other, more palatable, forms, *e.g.*, from vitamin tablets.

[6] Comments of Dr. Dallas W. Smythe on behalf of the Office of Communications of the United Church of Christ UCC.

[7] *Id.*

[8] See, *e.g.*, Comments of UCC or Comments of ACLU, *et. al.*

[9] These commenters generally argue that only certain groups would be represented in a nonregulated radio market, *i.e.*, demographically attractive groups. See, *e.g.*, Comments of the New York Chapter of the National Organization for Women; ACLU, *et. al.*, Committee for Community Access; and Public Media Center.

[10] See, *e.g.*, the comments of Department of Justice, Council on Wage and Price Stability, National Association of Broadcasters, Steven Wing, and Walton Francis.

[11] Dr. Dallas W. Smythe comments on behalf of The Office of Communications of the United Church of Christ at 2. Although his portion of UCC's comment was filed subsequent to the close of the reply comment period, we will accept it for filing. UCC demonstrated good cause for the late filing and, as no right to reply to reply comments exists, no other party will be prejudiced by our acceptance of Dr. Smythe's study.

[12] By this Smythe means that the strength of an electromagnetic wave at any given location can take on any one of a number of values each of which has some probability (however small) of occurrence. If, on the other hand, it could be determined to take on a particular value with certainty it would be discretely specifiable or deterministic. [Footnote added.]

Because the radio spectrum is used to communicate information and because control of the flow of information is the basis of political power, the control of the use of the radio spectrum lies close to the seat of sovereignty in the nation state. No other resource has this order of political significance. At the same time, the necessary joint decisionmaking by all nations at the world level has for almost a century substantiated the fact that by international and national law, title to the radio spectrum rests not with individuals or nations but in all humanity.[13]

13. The first four properties appear to involve economic issues and can be examined using economic analysis. The last property is concerned with political power; if true, it could represent, in our constitutional system, a rationale for removing allocation from government control altogether rather than requiring the government to allocate the resource. Focusing on the economic analysis, Dr. Smythe draws a distinction between the spectrum and other resources based on the first four characteristics. He argues that, because of these characteristics, property rights for spectrum cannot be developed, and that, absent such property rights, a market to allocate spectrum cannot operate. In fact, as we shall show below, it is possible to construct property rights involving spectrum. However, that is not the purpose of the instant proposed rulemaking. Our concern is not whether the marketplace can allocate spectrum, define property rights, or set technical standards, but whether, given the allocation of spectrum to broadcasting and the assignment of frequencies to licensees, marketplace forces would provide programming in the public interest absent certain guidelines. Dr. Smythe's discussion of uniqueness does not address this issue. Therefore, that part of his analysis is not pertinent here.[14]

Scarcity as a Rationale for Regulation

14. The scarcity theory has been relied upon for over 50 years as a major basis for public interest regulation of broadcast radio. The first pronouncements of the theory can be found in the legislative history of the Federal Communications Act. Because of changed circumstances in the industry that have altered some of the assumptions underlying the scarcity theory, we reviewed the theory—and its implications for policy—in the *Notice*. Several commenters,[15] most particularly the ACLU, took strong issue with our analysis. It is appropriate to review that analysis and then to address the criticism.

15. The scarcity theory as developed in the 1920's largely was based upon the then existing problems of interference and of markets containing only one or a few stations. Both problems were assumed to be nonremediable. At that time, it was decided that in order to control interference, the Commission must assign licenses that guaranteed broad protection to licensees. Further, it was believed at that time that the system would result in only a few stations operating in a given market. This seems to have been based upon the fact that there were thought to be only a small number of frequencies that could be utilized for radio broadcasting. Thus, it was believed that only a limited number of radio stations would come to exist and compete.[16] Because of a lack of competition among the small number of stations and because of the existence of the "Radio Trust," it was feared that broadcasting in the public interest would be forthcoming only if it were required—that otherwise neither diversity nor responsiveness would be assured. As a result, a system of regulation was implemented to assure the provision of certain types of programming that met public interest objectives. The *Notice* in this proceeding provided overwhelming evidence that the assumption that there would be only a few stations in any market was not borne out. Not surprisingly, the decisionmakers of the 1920's and 1930's could not forecast developments in FM radio and directionalized AM antennas that allowed for the vast increase in the number of radio stations as demand for radio service grew, or the technological advances that allowed more noninterfering stations to coexist. Noncompetitive markets did not become the norm. Further, evidence was presented in the *Notice* that market forces exist to assure the provision of programming in the public interest—to provide nonentertainment programming, to provide diverse programming, and to limit commercial levels. Neither a preordained limit on the number of competing stations nor a lack of public interest programming was inevitable, or even likely. Empirical evidence was presented in the Tables in the *Notice* refuting the argument that in modern broadcast radio there exists some unique scarcity situation that inherently renders markets noncompetitive and unresponsive to the public, thereby necessitating government regulation of radio programming. In fact, most commodities are scarce, but that fact does not of itself trigger the need for regulation. There might still be public interest considerations that call for regulation, but these would stem from certain economic, social, or political goals not necessarily dependent on any scarcity phenomenon "unique" to radio.

16. The relevant policy issue with respect to scarcity, then, is not simply whether spectrum is scarce. The relevant issue is whether as a result of spectrum scarcity regulation is necessary in order to achieve economically, socially, or politically determined public interest objectives—in particular, in order to provide programming responsive to public wants and needs. Before addressing this issue, it is useful to define what economists mean by scarcity. To the economist, scarcity of any commodity simply means that there is not enough of that commodity available to give everyone all that they want for free. Thus, some system of allocating the limited supply must be developed. In a radio market, under a given set of technical constraints involving allowable levels of interference, it may be technically possible for a certain number of radio stations to co-exist. For example, there may be 10 radio channels available in a market. If in that market only one—or five, or ten, but fewer than 11—individuals want to operate stations on those channels, then there is no economic scarcity. Many people in that market might want to own a station if they could make money doing so, but in fact there are more channels available then there is demand for the channels—even at a zero price. The airwaves offer *potential* service only; they have actual value only if there is sufficient economic wherewithal to exploit that potential. There is value in the free flow of ideas only if the medium for distributing those ideas is viable. Consider, analogously, land by a river. In New York City, a river view is highly demanded, and in limited supply, and is therefore scarce and highly valued. Similarly, farmland near a river that provides water for irrigation is scarce and highly valued. Riverfront property in the wilderness, on the other hand, though perhaps beautiful and potentially of value to many people, has development costs that

[13] Smythe comments, at p. 2.

[14] It must be noted in passing, however, that these "unique" characteristics have been successfully incorporated into property rights or lease rights in other markets. (1) Transportation systems as well as communication systems provide a means to transmit and receive (*i.e.*, to distribute) commodities—though in the former, goods are transmitted; in the latter, services. The primary distinction is the speed with which the process occurs. (2) Compatibility, including international coordination, need not cover anything more than interference protection. Coordination of spectrum use is not inherently different from coordination of land use, for example. Real estate is bought, sold, and leased subject to constraints on use (imposed by zoning laws, *etc.*) that are either spelled out explicitly in the deed or supercede the legal authority of the deed. Interference constraints could be handled analogously. (3) Similarly, the fact that spectrum is both non-depletable and instantly renewable does not make it unsuitable for market allocation. With careful management such resources as forests and fisheries are renewable. The only difference between these and spectrum are that the former require a longer period for regeneration between harvests. Yet, property rights that allow trading in a market have developed for both forests and fisheries (including fishing rights in international waters). These markets differ from those for spectrum not because of inherent differences but because they are regulated differently. (4) Finally, Dr. Smythe's concern with probabilistic measurement *i.e.*, that we must rely on *predicted* rather than *actual* service contours (Grade A, Grade B, *etc.*) for radio, is not a barrier to market allocation. In many markets, final outcomes are not definite, but the probability of different outcomes occurring can be estimated. Fishing is necessarily probabilistic, yet firms bid for fishing rights. The existence of insurance policies is proof that claims, contingent upon probabilistic outcomes, are commodities that can be defined and traded in markets. Radio spectrum can be treated similarly. It is clear that economic forces do exist for spectrum allocation and it appears that there is no natural impediment to the use of a market to allocate spectrum. This is not to say that such a market would necessarily operate perfectly. The relevant issue is whether such marketplace forces would better achieve public interest objectives than would the regulatory alternatives. In the instant matter, the issue is even narrower—whether marketplace forces or government regulation would yield programming most responsive to the public's wants and needs.

[15] Comments of ACLU, *et al.*; WNCN Listeners Guild; and Committee for Community Access.

[16] Indeed, at one time the then Secretary of Commerce, Herbert Hoover, advocated that there should be "fewer stations rather than more. . . ." 68 Cong. Rec. 4110.

exceed the value to consumers and therefore may not have economic value at present.[17] The land will command a zero price and will not be economically scarce. In the same sense, spectrum is no different from other commodities. Where its supply exceeds its demand at zero price, it is not scarce. In those markets where demand exceeds supply, it is scarce and a means of allocation must be devised. There is no inherent reason why such spectrum could not be allocated to the highest bidder—subject to restrictions on interference, perhaps analogous to zoning or pollution restrictions. However, due to certain socially or politically determined public interest objectives—for example, diversity of voices or the provision of local service—we have allowed a modified market system where licenses are initially awarded without charge, but then are retained, bought, and sold subject to public interest findings in such areas as multiple ownership, local ownership, etc. More relevant in this proceeding is whether spectrum scarcity requires certain regulations pertaining to programming—guidelines on nonentertainment programming and commercialization levels and ascertainment procedures. The central issue is whether, in a market with scarcity, licensees would provide programming responsive to the wants and needs of the public. That is, given that in a "saturated" market there is only a fixed amount of hours available for programming, and not all demands can be met, is it more in the public interest to leave the programming decisions to a market (while maintaining licensees' individual public interest obligations, the Fairness Doctrine and acknowledging the existence of noncommercial radio) or to rely additionally on the guidelines and procedures? In the *Notice*, the Commission presented data on what the market currently provides, and from these data made forecasts of what the unregulated market would likely provide. Based both on data developed for the *Notice* and on data and analyses found in comments, we feel that the marketplace—even in an environment of economic scarcity—generally will be responsive to the wants and needs of the public. Scarcity in and of itself does not impose the need for specific programming regulations.

17. In defending the scarcity theory, the ACLU presents an approach which relies upon another argument supporting governmental intervention in the programming area. The ACLU alleges:

The scarcity theory is based upon the need to limit the number of radio stations to reduce interference. In return for the free grant of a license, the licensee "is burdened by enforceable public obligations." [Footnote omitted.] Because the general public's first amendment right to speak via radio is abridged in order to serve the public interest in making radio signals intelligible, those who are granted a monopoly over the use of a particular frequency in a particular location must use the monopoly in the public interest.[18]

18. Based on this approach to the scarcity theory, the ACLU claims: The Notice's criticism is ultimately not of the scarcity theory at all, but of the public interest objectives espoused by the Commission since its creation.[19]

In fact, in the *Notice* we have taken both the Commission's historical public interest objectives and all statutory requirements as given. We simply asked whether market forces could attain these public interest objectives absent certain guidelines and procedures. To conclude that these guidelines and procedures are not necessary to attain public interest objectives is not to reject those objectives, but rather to reject certain ineffective and potentially counterproductive regulations.

The Market for Advertising Time v. the Market for Radio Programs

19. Dallas Smythe asserts that it is inappropriate to talk about a consumer market for radio programs because, he alleges, there is no such market; there is only a market for advertising time.[20] In Smythe's view, the radio program is in a sense analogous to the "production" in the cocktail lounge of the peanuts, popcorn and pretzels which the management provides along with appropriate decor, and perhaps entertainment, in order to sell its principal product, liquor.[21]

This is not a perfect analogy, but it is somewhat instructive. There may be no direct market for cocktail lounge peanuts and piano players, but these "amenities" are apparently effective and in some cases necessary devices to attract paying drinking customers, and will be provided according to how important they are to a particular cocktail lounge's clientele. In the case of radio programming, it is even more important to provide the proper "amenities," *i.e.*, responsive programming. In radio the revenue-producing service, advertising messages—unlike liquor—has no appeal in and of itself to listeners. Therefore, it is precisely the programming that is necessary to attract the listeners and, indirectly, the revenues. The key point is not whether a price mechanism exists, but whether the market has an incentive structure that is responsive to consumer demands.

20. Advertiser-supported broadcast markets operate without prices and therefore are not able to take into account the intensity of demand of individual consumers. They nonetheless provide an arms-length mechanism by which individuals and society make decisions on how to employ scarce resources to produce radio programming and distribute it among various people and groups in society. This is the same function that any market with a direct price mechanism performs. With or without a direct price mechanism, there are economic limitations on how much of each type of programming listeners will consume. These limits are set by the value of the alternative uses to which listeners can put their time—the "opportunity cost" of listening to a particular program rather than performing some other activity (including listening to an alternate program, listening to a phonograph record or enjoying silence). Broadcast licensees also face opportunity costs—profits foregone by providing one type of programming rather than an alternative or by investing in radio rather than in some other entrepreneurial activity. The incentives that these opportunity costs create operate for all programming—entertainment, nonentertainment, and commercial. There can be no denial that the incentives exist and perform the same task as a market with a direct pricing mechanism. The relevant issue remains whether or not this advertiser-supported market provides programming responsive to the public, *i.e.*, in the public interest.

21. There are, in fact, incentives for both licensees and listeners to be responsive in a way that will lead to a relatively efficient mix of program choices.[22] Listeners, in seeking satisfaction, will have an incentive either to turn to alternative activities if they do not care for the programming or to switch to another station. When programming is unresponsive to their wants and needs, consumers will reduce the amount of time spent listening to radio relative to other activities. Broadcasters, without the benefit of a pricing system, must rely on the number of listeners rather than on the intensity of demand. In order to maximize profits, licensees will try to provide programming that attracts the largest receptive audience. In markets with few stations, this will generally result in common denominator programming with broad appeal. Intense demands shared by only a few individuals may go unmet. This situation, however, is not unique to broadcasting. In small markets, there will be too little aggregate demand to support specialty restaurants, furniture stores, *etc.* As the number of stations in a market increases each station will expect to attract a smaller share of the audience, and narrower tastes will be addressed. There will be greater diversity in both entertainment and nonentertainment programming. The data presented in the *Notice* indicated that just such programming diversity already exists.[23]

[17] Both spectrum and river front property that might not have value today might be highly valuable in the future due to technological advances or new demand.

[18] Comments of ACLU, *et al.*, at p. 23.

[19] *Ibid.* p. 24.

[20] Smythe comments at pp. 29–32.

[21] *Ibid.* at p. 31.

[22] The market result will not be perfect because it will not be possible for consumers to reveal fully their intensity of demand. This problem, it must be stressed, continues to exist in a regulatory environment and may not be fully eliminated even with a pricing mechanism. This holds true because once the signal is provided there is no additional cost to the broadcaster for another listener to receive that signal. That additional listener will have the incentive, even in a pay system, to understate the value of that signal to him. Only by incurring the additional cost of scrambling signals and charging a fee to unscramble them can such "free-riders" be eliminated.

[23] One commenter, John R. Kupiec, investigated what he considered to be "specialty" programming in Philadelphia and Washington, D.C. for both 1958 and 1979, and alleges that the level of specialized programming has fallen over time. There are several methodological problems with his study, however, not the least of which is his inability to provide an objective definition of "specialty." Nor was Kupiec

Since the *Notice* was released, 267 additional radio stations have commenced operation, and current Commission proceedings in both the AM and FM bands could make available still more stations. In sum, there is considerable evidence that radio broadcast markets, albeit imperfect, to a great extent do provide diverse programming responsive to the public and that continued entry could further increase such diversity.

Is "Consumer Satisfaction" The Appropriate Criterion for Analysis?

22. The use of "consumer satisfaction" as the optimizing criterion in our analysis drew more comment than any other single issue related to the use of the market model.[24] Two basic arguments were made: first, that well defined public "needs" exist that are both separate and distinct from public "wants," but are not taken into account when markets respond to "consumer satisfaction";[25] and second, that consumer satisfaction only represents those groups to whom it is profitable to direct advertising messages.[26]

The Existence of "Needs" Separate From "Wants"

23. The commenters critical of the market model argued that there are public "needs" that are independent of consumer satisfaction and that on their own individuals will not demand programming that addresses these needs. The need exists, for example, for a well-informed electorate, and there are public benefits from pursuing such a goal that individuals might not take into account when making their listening decisions. As a result, these commenters continue, there must be government intervention to assure that certain levels of nonentertainment programming are provided.

24. As mentioned earlier, at paragraph 10 *supra*, the *Notice* explicitly took this possibility into account, recognizing that markets might not provide such programming, and then took the next step and asked whether the regulations in place resulted in a net gain to the public over the imperfect market. The findings, which have not been refuted, in the comments, suggested that absent the specific regulations, the market would continue to provide considerable news programming, but there might well be a reduction in public affairs programming.

25. One commenter, Walton Francis,[27] directly addressed the issue of unrevealed needs—that is, needs that consumers either do not recognize or for which they do not choose to demand programming. He warned about the inherent elusiveness and subjectivity that reliance on unrevealed needs fosters. Indeed, he questioned the existence of needs independent of wants. In essence, he pointed out the risks involved whenever the government intervenes not in response to a demonstrated unmet need but rather in response to an unrevealed, and uncertain, need. There is always the question of whether unrevealed needs, if programmed to, would draw listeners. If not, or if only in miniscule number, then there may be substantial opportunity costs, in terms of listeners being denied preferred programming, associated with allocating radio time to this use.

26. Wants on the other hand, are more identifiable than "needs," in that they are clearly revealed by expressions of individual demand. That is, wants are observable since individuals act on the basis of wants. Thus, to require programming aimed at unrevealed needs, which are difficult to determine, at the expense of programming that is clearly demanded by the public, is to replace the judgment of the government for that of the public. This should be avoided unless there is a high degree of confidence that (1) the unrevealed needs exist; (2) they are not being addressed by current programming; (3) they will continue to be unaddressed by the unregulated market; and (4) meeting these needs is more valuable to the public than meeting the revealed demand for the programming that will be replaced by the required programming.

Consumer Satisfaction May Not Reflect Everybody

27. Several commenters posit that a market responsive to consumer satisfaction might nonetheless fail to respond to the preferences of groups that are small in number or in purchasing power.[28] They argue that the public interest requires that programming be responsive to all citizens, not just to those who share tastes with many others or who are sufficiently affluent to be attractive to advertisers. There are two issues here: whether markets will respond to the preferences of these groups and, if not, whether it is in the public interest nonetheless to require programming responsive to the preferences of these groups.

Preferences of Groups That are Small

28. As stated earlier, it is clear that when there are few stations in a market, licensees will tend to provide common denominator programming. In such markets there is likely to be available spectrum but insufficient demand to support additional stations. Programming aimed at specialized audience segments, besides being economically infeasible, most likely would not be in the public interest if larger segments of the community would go unserved. As in the case of other consumption items where the minimum size of the producer or distributor is large relative to the size of the total market, the few providers that can be supported must provide products that will attract a sizeable share of a limited potential audience. As the size of a radio market increases, and additional outlets can be supported, it becomes profitable for some stations to direct their programming to relatively small groups rather than to split the middle-ground audience among many stations. As the market size increases, both market forces and public interest considerations change in the same direction—toward the provision of more specialized programming. There is a natural tendency for markets, as they grow, to become more responsive to the preferences of smaller groups.

29. A problem arises, according to some commenters, when the market nonetheless fails to respond to the preferences of diminutive or demographically "nondesirable" groups. It is recognized that not every want or need can be met by radio. Some minimum level of demand must exist before it is profitable for broadcasters to provide particular programming. Beyond some point, it is clearly not in the public interest to forego programming that many people prefer in order to provide for every minority taste. At the same time, in many non-broadcast markets minority tastes can be met if the small number of individuals with those tastes have a sufficiently strong intensity of demand for a product and are willing to pay accordingly for it. In advertiser-supported radio, there is no mechanism for the direct purchase of programming and therefore intense minority tastes will tend not to be met. Hence, the argument that market forces alone fail to operate in the public interest.

30. We recognize the imperfection of the market in this respect, but feel that there are two alternative regulatory approaches available to address the problem. The conduct approach, favored by several commenters, would require each licensee to program for all segments of his community, including groups whose preferences might not be met in an advertiser-supported market context. The structural approach, favored by other commenters and proposed in the *Notice*, would attack the problem when it exists by devising a regulatory scheme that maximizes the opportunity for additional stations to commence operation and by encouraging ownership by and employment of members of minority groups. Wherever these potential stations are economically viable, the increased competition and consequent market fragmentation would reduce expected market shares and create incentives for licensees to seek more specialized audiences. Because specialized audiences may be too small to support full-time programming, time brokerage and time sharing within a station could be encouraged. The Commission has, in fact, just released a *Policy Statement* encouraging such time brokerage arrangements.[29] Time brokerage has been used in the past primarily for foreign language programming, but potentially can be expanded for use by other minority taste audiences. We have already implemented many structural rules that have had the desired effect of increasing minority taste programming and generally favor the structural approach to this issue. In addition, pay radio, which until recently was not

able to define criteria by which to judge whether the alleged decrease in speciality programming was in the public interest. It is difficult, then, to accept his limited and ambiguous empirical study as a successful refutation of the marketplace theory.

[24] Examples of these critiques can be found in the comments of the WNCN Listeners Guild, the Office of Communications of the United Church of Christ, the Office of Communications of the United States Catholic Conference, the ACLU *et al.*, and Massachusetts National Organization for Women.

[25] *ID.*

[26] See footnote 9, *supra*.

[27] Comments of Walton Frances at pp. 1–2.

[28] For example, see ACLU, *et al.*, at 21–22, and Massachusetts NOW at 4.

[29] *Policy Statement on Part-Time Programming* (BC Docket No. 78-355).

economically viable, is now beginning to be provided on cable systems that have very large capacities. In New York City, a pay service offering Mandarin Chinese programming using FM SCA's is already in existence. We believe that the structural approach to regulation is already proving effective in providing programming responsive to minority tastes.

31. We recognize that the marketplace approach cannot assure that every demand for minority taste programming is met. Neither could a regulatory regime with programming guidelines and formal ascertainment procedures provide that assurance. Indeed, it is not in the public interest to allocate scarce resources to meet very minute demands where the public benefits are small, but the costs—in terms of foregone alternate programming—are substantial. The primary advantage of the marketplace over administrative decisionmaking is that the former provides an efficient and flexible mechanism for measuring these tradeoffs, while the latter is necessarily cumbersome and inflexible.

Preferences of Groups with Low Purchasing Power

32. Some commenters argued that advertisers do not value all listeners equally, rather they prefer those individuals or groups who are most likely to purchase their products. As a result, broadcasters tend to program for certain demographic groups instead of others. In particular, it is alleged that racial and ethnic minorities and the elderly will not have their wants and needs met in the marketplace. Unfortunately, commenters did not provide any empirical data to substantiate this claim. To analyze the argument, two factual issues must first be addressed: (1) to what extent do these "nondesirable" demographic groups indeed have unique preferences; and (2) if these unique preferences exist, is it true that broadcasters will not have an incentive to program to them.

33. It is difficult to determine the extent to which these groups have a set of programming interests that is substantially different from the programming oriented toward other groups. With the exception of foreign language programming, there are few formats—entertainment or nonentertainment—without some "crossover" interest, *i.e.*, that do not attract "non-targeted" as well as "targeted" individuals. It is certainly likely that the programming aimed for "demographically preferred" groups also appeals to these less preferred groups. It is difficult to determine whether, for example, the elderly who tune in to an "easy listening" station are doing so as a second programming choice, given the unavailability of their first choice, or if it would be their first choice. If it were the second choice, was it a distant second or a close second? More pertinent for this analysis, does the easy listening station address the nonentertainment issues important to the elderly or are they too small a portion of the station's total audience to be specifically catered to? Unfortunately, none of the comments provided information that addressed these questions. Nor did any commenters address the key issue that would arise if their proposed regulatory requirements or guidelines were imposed: How much is enough?

34. Several commenters assumed that licensees, responding to marketplace forces, would not respond to low income listeners because advertisers would consider them commercially insignificant. In fact, there have been studies that indicate that low income families tend to be more brand-conscious in their buying habits than higher income families and, thus, presumably more receptive to commercial advertising messages. These studies of purchases of grocery items identified differences in purchasing patterns among families with different income levels.[30] P. E. Murphy found that as income increases shoppers are less likely to purchase brand name items.[31] He found that as income increases shoppers exhibit less brand loyalty, *i.e.*, they are more likely to change brands or to purchase non-branded products. Two other studies provide some indirect support for Murphy's findings. R. E. Frank, *et al.*, found that as education level increased, the level of brand loyalty decreased.[32] Since income levels and education levels are highly correlated, this is consistent with the Murphy study. Further, R. Blattberg, *et al.*, found that as income increased shoppers exhibited a greater likelihood of taking advantage of store "deals," such as cents-off-coupons.[33] This appears to be due, in part, to the relatively greater mobility of higher income groups who have access to automobile transportation both to comparison shop according to price and to get to the stores featuring the "deals." All of these studies suggest that lower income households are likely to spend a disproportionately large share of their income on branded products. This makes them attractive to advertisers and to broadcasters despite their lower total incomes.

35. Marketing studies on the purchasing patterns of Blacks, who generally have lower income levels than whites, are consistent with those findings. Consider for example the data that R. Dwight Backman cites in *Dynamics of Black Radio*,[34] from a paper presented by D. Parke Gibson:[35]

Seventy-three percent of black money is spent in retail sales as opposed to 56 percent for white expenditures. [footnote omitted] Some other black financial characteristics include:

—spending up to 12 percent more at supermarkets for food to be consumed at home, than the average white family . . .

—spending more than whites when buying new cars . . .

—spending by black women of nearly $400 million on cosmetics . . .

—consuming 19 percent more carbonated, non-carbonated and powdered soft drinks than whites . . .

—brand consciousness of high quality products.[36]

In addition, Bachman cites the following conclusion taken from a different study:

—The level of purchase attributed to commercials on Black radio is almost twice that of general radio.[37]

Cosmetics and soft drinks are among the most heavily advertised products in the economy. Although advertising represents a smaller share of total costs on automobiles, the total advertising budget for automobiles is huge. If these are products on which Black families spend a disproportionate share of their incomes, then even if those incomes are significantly below national averages Blacks will represent an inviting audience for advertisers to reach, especially if they are brand concious consumers. And if Black listeners are especially responsive to advertising on Black formated stations, that is yet another incentive for broadcasters to provide such programming. It is therefore not obvious that broadcasters will fail to provide programming responsive to Blacks.[38]

36. It appears, then, that while broadcasters might be less responsive to certain demographically "nondesirable" groups, there is no clear indication who those groups are, how much less responsive radio broadcasters might be, or how effective specific regulatory procedures might be to correct the situation.[39] We continue to believe that structural regulation aimed at maximizing the opportunities for new stations to come on the air is the most effective way to attain specialized programming.

37. There were several other comments relating to consumer satisfaction. Robin Carey specifically addresses the issue of unique entertainment formats, which is not the issue under discussion here, but her remarks might be pertinent nonetheless if her arguments concerning classical music could be extended to nonentertainment programming. Referring to the academic

[30] Although grocery items do not represent all consumer purchases, they are pertinent here because many items on grocery store shelves are heavily advertised.

[31] Murphy, P. E., "Effect of Social Class on Brand Loyalty and Price Consciousness for Supermarket Products," 54 *Journal of Retailing* 33 (Summer 1978).

[32] Frank, R. E., S. P. Douglas, and R. E. Polli, "Household Correlates of 'Brand Loyalty' for Grocery Products," 41 *Journal of Business* 237 (1968).

[33] Blattberg, R., T. Buesing, P. Peacock, and S. Sen, "Identifying the Deal Prone Segment," 15 *Journal of Marketing Research*, 369 (1978).

[34] Creative Universal Products, Inc., Washington, D.C. 1977.

[35] *Consumer Attitudes and Marketing Strategies*. Paper delivered at the Fifth Annual Symposium on the State of the Black Economy, American Hotel, New York, June 5, 1975. See also paragraph 99, Appendix E.

[36] *Id.*, at 46.

[37] Bachman, *supra*, at 51. The quote was taken from, *A Study of the Dynamics of Purchase Behavior in the Negro Market: Negro Radio Stations*, Vol. II. The Center for Research in Marketing, Incorporated, New York, May 1962, at p. 47.

[38] For a similar analysis of Hispanic audiences, see Hispanic Broadcast Focus, *Television/Radio Age*, A–3 (Dec. 15, 1980).

[39] For example, it has often been argued that too much radio time is allocated to mindless "teenage" music or to young adults, yet trade press articles suggest that these are not necessarily preferred audience from the industry perspective. See *e.g.*, "18-to-49 bracket shown losing favor," 38 *Television/Radio Age*, 37 (Nov. 17, 1980).

works of Tibor Scitovsky [40] and Fred Hirsch,[41] Carey states:

Scitovsky, basing his ideas on research in psychology, suggests stimulus consumption, that is, "consumption which involves change, variety, surprise, novelty," and which arises from mental pursuits and from interpersonal relationships enriched by mental pursuits adds more to human well being per dollar of expenditure than the consumption for comfort, which, to Scitovsky, signifies consumption, which merely alleviates physical discomfort. In consumption decisions, consumers tend to stress comfort consumption rather than stimulus consumption, because much of the benefit from stimulus consumption takes the form of externalities. Provision of radio broadcasting for the widest range of tastes certainly provides stimulus rather than comfort.

Hirsch, in a more societal approach, warns against the consumption of what he calls positional goods, which are scarce physically or in some socially imposed sense, and thus, with economic growth, command increasing resources in exchange, though they give no greater intrinsic satisfaction. Surely the consumption of radio programming carries no such negative implications.

If Scitovsky's and Hirsch's approaches are accepted, the acceptance provides the basis for arguing that the provision of certain types of radio programming offers an opportunity for society to obtain more consumer welfare for a given amount of resources, than does the provision of comfort and positional commodities.

It is also possible to argue that variety in radio programming is itself beneficial in that it will provide listeners the opportunity to widen their tastes. While it is not being suggested that the government should prescribe tastes, it should not shrink from the responsibility of making options known.[42]

38. The kinds of activities that Scitovsky has in mind when he discusses stimulus consumption range from good conversation to pleasant, well integrated architecture. This satisfaction, he argues, comes largely from "human action and imagination." [43] He argues that these activities are either not amenable to market transactions or, if reduced to a market transaction, lose their ability to fully satisfy.[44] Such a theory does not lend itself to empirical validation. It is not true, moreover, that markets do not implicitly take these factors into account. When individuals choose to listen to radio or participate in any other activity, they make choices based on how they value use of their time in one pursuit rather than another. If good conversation is valued highly by an individual, he will be more likely to partake of conversation than put on a headset attached to his radio. Similarly, if many individuals value certain architecture, that will probably be reflected in the price of buildings of the favored style; neighborhoods will gain status—and market value—accordingly.

39. It could be argued, perhaps, that nonentertainment programming is more likely to improve the conversational ability of listeners than is hard rock programming, and that as a result individuals in search of conversation partners will benefit. It is not clear, however, that it is the Commission's role to foster this. It is certainly not the Commission's role to widen tastes, though we agree with Dr. Carey that where possible options should be made available. The relevant question is *how* to make options available. Does the mechanism of the marketplace, albeit imperfect, better reflect the preferences of the public than do government rules, regulations, and guidelines? Our analysis suggests that the market can generally better reflect public preferences than can government-imposed guidelines and procedures, particularly if there are many independent voices in the market. At the same time, the government has set aside broadcast radio spectrum for non-commercial operation specifically, in part, to address minority tastes. Dr. Carey states at page 8 of her comments that "society has decided to aid certain groups. . . ." This is certainly true, but it may well be that structural regulations such as minority ownership programs and EEO rules that specifically address the needs of these groups is preferable to conduct regulations that are inflexible and often unresponsive to the real wants and needs of the public.

40. There is one additional criticism that has been made by some commenters concerning reliance on consumer satisfaction as the criterion for measuring the public interest. The flavor of the argument is given by the following quote from the reply comment of the Committee for Community Action:

Mr. Kessel [projects director of CCA] commented that people who listen to classical stations probably do generally have other sources for news and agreed that there might be no reason for the Commission to require much news on classical stations. But, he said, the situation is probably very different for rock stations. Based on his experiences from working in the news department of a Boston rock station, WBCN, from 1976–77, he said there was a lot of positive response to WBCN's newscasts. However, he said that WBCN listeners were very loyal and probably did not switch to other stations frequently; also most of them were probably not interested enough in news to seek it out from other sources if it were not on WBCN. Thus a loss of news on WBCN would deprive many people of their only source of news.

Kessel added that he thought listeners to the other rock stations were similar in their unlikeliness to seek out other sources of news. He said that perhaps ideally there should be a rule that distinguishes between rock and classical stations and applies nonentertainment guidelines only to the former. But since it would probably be impossible for the Commission to promulgate different rules for different formated stations, the most prudent thing would be to keep the nonentertainment guideline for all stations.

[When] asked whether WBCN would have eliminated its news without Commission guidelines . . . Mr. Kessel answered that the present owners and management seemed genuinely committed to news; however, during the time he worked there, under different owners and a less enlightened management, news and public affairs was viewed purely as something necessary to satisfy the FCC. Absent Commission rules it probably would have been eliminated completely.[45]

41. The basic argument appears to be that the availability of nonentertainment programming in a market is not sufficient: that each station must provide such programming because some listeners might not switch to other stations to receive it. The presumption is that such programming is something all citizens should receive, whether or not they want it; also, that the failure of a particular station to provide it (because the listeners of that station do not desire such programming) represents a serious imperfection. This argument presupposes many value judgments about what constitutes the public interest. Consumer satisfaction is judged an inappropriate criterion because it allows citizens to avoid their "duty" to be informed. In fact, CCA does not show that, absent nonentertainment programming guidelines, certain audiences would be uninformed. It presents no evidence that the listeners who want relatively little news on their preferred stations do not get news from other sources (newspapers, television, *etc.*). Rather, it assumes that classical listeners do, but rock listeners do not. Further, Kessel admits that listeners of WBCN, a rock station, indeed want news. That is consistent with the empirical findings we presented in the *Notice*—that radio news is demanded by the public and is likely to continue to be provided by stations. Should WBCN eliminate its news programming, it would likely lose some, possibly many, of its "loyal" listeners to other stations that continue to provide news programming.

Criticism of the Data

42. There were two levels of criticism made by commenters concerning the data in the *Notice:* first, that the data provided either could not be replicated or were inaccurate; and, second, that the Commission failed to collect all the data necessary to make a complete analysis of the costs and benefits of the marketplace approach compared with alternate regulatory approaches.

43. Eric S. Luskin, a student at the Annenberg School of Communications of the University of Pennsylvania, asserts that he was unable to replicate in its entirety the analysis performed by the staff because of missing or inconsistent data and that where

[40] *The Joyless Economy: An Inquiry into Human Satisfaction and Consumer Dissatisfaction*, Oxford: Oxford University Press, 1976.

[41] *Social Limits to Growth*, Cambridge, Mass., Harvard University Press, c. 1976.

[42] Comments of Robin Carey, at pp. 7–8.

[43] Scitovsky, at pp. 82–84.

[44] While "externalities" may account for part of Scitovsky's concern (*id.* at pp. 85–86), he is most concerned about the degrading effect placing a market value on a stimulus good has on their enjoyment. For example, tennis played for its enjoyment provides great satisfaction; yet tennis played professionally is regarded less highly by society (*id.* at p. 83).

[45] Reply comment of Committee for Community Access, at pp. 21–22.

he attempted such replication, he found errors.[46] Mr. Luskin states that "the Notice did not address the matter of methodology. * * *" However, the Public Notice of January 11, 1980, which he cites in his comments, did provide a detailed description of the methodology used, including a discussion of missing data. Mr. Luskin did not criticize that methodology.

44. Mr. Luskin asserts that many of the program logs from which the staff culled the data were missing or not available for public inspection. In fact, six logs were unavailable, out of a sample of over 200.[47] The remainder of the material that Luskin alleges was missing or unavailable either was, indeed, available or had never been collected or used by the staff and therefore need not have been available. For example, Mr. Luskin alleges that logs were missing for Stations WGFS, WTCB, WXOG, WYOK, and WTLS; in fact, the logs for all these stations were (and still are) on file. In addition, Mr. Luskin alleges that:

The following [single station] markets not listed in the *Notice* were included [in the sample]: WLAY, Muscle Shoals; WFOM, Marietta; WLPH, Irondale; WZZK, Homewood; WTJH, East Point; WMFC, Monroe; WZZA, Tuscumbia; WNMT, Garden City.[48]

In fact, all of these stations were included in both the sample and the *Notice*. They are not, however, in single station markets. Marietta and East Point are communities of license within the Atlanta market; Irondale and Homewood, within the Birmingham market; Muscle Shoals and Tuscumbia, within the Florence-Sheffield market; and Garden City, within the Savannah market. A careful reading of the "Description of the Methodology Used" in the January 11, 1980, Public Notice and of Appendix A of the *Notice* should have provided Mr. Luskin with that explanation. The remaining station, WMFC, is in Monroeville, not Monroe, and was correctly included in the *Notice* as part of that two station market. Mr. Luskin's criticism is therefore unfounded.

45. Mr. Luskin complains that logs were made available for each station in the sample for only one day of the composite week, rather than for all seven days. The sample that staff constructed included only one day of programming for each station. Hence these were the only data relied upon. Mr. Luskin provides no argument for why this would yield an inappropriate sample and therefore his complaint has no apparent basis.

46. In addition, Mr. Luskin asserts that logs that were "illegible" or "difficult to interpret without a high degree of confidence" were used by the staff, in contradiction to the statement of methodology in the Public Notice. To prove his point, Mr. Luskin provides copies of several logs. Broadcast analysts in the Renewal Branch of the Broadcast Bureau, who are experienced in analyzing logs, performed the arduous task of culling the data on news, public affairs, and commercial programming. They relied upon their own judgment in deciding which logs were legible and capable of interpretation. Because of their experience in this area, their judgment should be accorded greater weight than that of Mr. Luskin.

47. Finally, in the two instances where Mr. Luskin cites "errors" by the staff, contrasting his judgment to that of the broadcast analysts, his findings were more supportive of radio deregulation than were those of the staff. Each of Luskin's examples indicates that the staff overcounted the number of commercial minutes (*i.e.*, counted more minutes of commercial time than did Luskin). Luskin doesn't generalize from these examples except to suggest that the data should be rendered unreliable. We find that there is no reason to assume any systematic bias from two counting errors; hence there is no statistical basis to discredit the data.

48. Thomas David questions the reliability of the data culled from the program logs.[49] He alleges, based upon his experience as an attorney at the FCC, that many stations file false program logs that understate the amount of commercial programming aired. While occasional cases of falsification have been uncovered, there is no reason to believe that the practice is commonplace. In fact, Mr. David bases his allegations not on his experience with program logs, but rather on his experience investigating two cases involving transmitter logs.

49. Professor Richard A. Musgrave, of the Harvard University Department of Economics, in a two-page comment submitted as part of the United Church of Christ filing,[50] raises a different type of criticism. Professor Musgrave argues that more data on prevailing programming practices, demand patterns, demand elasticities, and programming costs are necessary in order fully model the relevant interactions. He asserts that without this detailed model policy judgments cannot be made. More pointedly, he states, "the [Notice] does not address the question of what number of stations is adequate to secure an effective program selection. * * *" This seems somewhat disingenuous, as the answer to such a question must necessarily vary from market to market, depending on such variables as the homogeneity or diversity of tastes in each market. In effect, Professor Musgrave argues that there is a need for a highly detailed model—and supporting data—to allow the Commission to fine-tune policy decisions. There are major problems with this approach. First, it is impossible to collect the requisite data. Demand information is very difficult to obtain absent a pricing mechanism. Even if there were a pricing mechanism, radio formats are not readily definable or categorized, thus making it difficult to gauge substitutability. And even if these problems were solvable, the cost of such an analysis, in terms of dollars and time, would be prohibitive, running into the millions of dollars and years of time and the results would nonetheless be subject to a high likelihood of error. Nor could one be certain that a model could be developed to take into account simultaneously all the factors that Professor Musgrave cites. In effect, Professor Musgrave's proposal would impose an impossible burden of proof on the Commission that was not imposed when the initial actions—the introduction of programming guidelines and ascertainment procedures—was taken. Because it would impose a burden that could never be met, it would effectively assure the maintenance of the *status quo*.

Summary of Economic Comments and Analysis

50. Most of the comments critical of the economic model cited the existence of imperfections in radio broadcast markets that were acknowledged and addressed in the *Notice*. Although a number of commenters cited various unique features of radio broadcasting that allegedly rendered marketplace analysis impossible or inappropriate, we do not believe that those arguments were convincing. Radio broadcast markets are certainly not typical of most markets, but the usual forces of supply and demand do operate, albeit indirectly and imperfectly. It is possible to compare the ability of these markets to provide programming in the public interest with and without the Commission guidelines and procedures under scrutiny in this proceeding. The criticisms include a number of cogent arguments why regulation *might* be considered, but they fail to indicate conclusively that the market, by itself, could not provide programming in the public interest.

51. There is one additional issue that many commenters mentioned but none seriously addressed—market failure. This is discussed at length in the Appendix-E, at paragraphs 104–111. Most commenters stated, in agreement with the *Notice*, that markets could, in some situations, fail to provide programming in the public interest. Although commenters provide no evidence that this would be anything but a rare occurrence, its possibility exists. There are methods by which it can be determined that a market has failed and there are potential remedies for such failures, but these are necessarily individual cases that must be handled on an *ad hoc* basis by individual markets. As such, they raise administrative and legal issues that are better addressed in the section on nonentertainment programming and petitions to deny than as part of this economic analysis.

Appendix E.—The Non-Entertainment Programming Guideline

A Brief History of Programming Regulation

1. A recapitulation of the historical involvement of the Commission in non-entertainment programming is instructive. Nearly as soon as the Radio Act of 1927 was enacted by Congress, the Federal Radio Commission, the FCC's predecessor agency, showed an interest in the non-entertainment

[46] Comments of Eric S. Luskin, pp. 1–11.

[47] Program logs are customarily discarded by the staff after the renewal process is completed, and apparently a staff member inadvertently discarded 32 logs that had been used in the radio deregulation analysis. As soon as this was discovered, the staff contacted the stations whose logs were lost and requested duplicate copies. Twenty-six stations complied with the request. Thus only six logs were unavailable for review.

[48] Comments of Eric S. Luskin at p. 3.

[49] Comments of Thomas David, at pp. 12–13.

[50] Reply comments of the United Church of Christ at Attachment-A.

programming of radio stations. License renewal forms requested information on the amounts of programming devoted to various types. Additionally, in its 1928 annual report to Congress the FRC stated its belief that it was entitled to consider program service provided by stations at least in comparing competing applicants so that it could make an informed judgment as to which applicant was most liable to render service in the public interest. Similarly, in cases such as *Great Lakes Broadcasting Co.*,[1] The FRC described as one component of the public interest the need for stations to devote ample time for the presentation of programming concerning issues of importance to the public.

2. After the Radio Act was recodified in the Communications Act of 1934, the Federal Communications Commission had the opportunity to amplify its views concerning the provision of non-entertainment programming by broadcast stations. Among the first major Commission policy statements on programming was its 1946 *Report on Public Service Responsibility of Broadcast Licensees*,[2] a document known as the *Blue Book*.[3] The document serves as a useful starting point for our purposes, not simply because of its locus in time, but, more importantly, because it illustrates the divergent doctrinal strains that have emerged from the Commission's involvement with informational programming. For example, while the *Blue Book* stressed that:

The Commission has given explicit and repeated recognition to the need for adequate reflection in programs of local interest, activities and talent.[4]

It also noted that:

Primary responsibility for the American system of broadcasting rest with the licensees of broadcast stations.[5]

Similarly, although the Commission asserted that "the public interest clearly requires that an adequate amount of time be devoted to the discussion of public issues," including some "local live" and "sustaining" (non-sponsored) broadcasts, it refrained from specifying particular amounts of time to be devoted to such programming.[6] Moreover, the *Blue Book* discussed the relevance of the market in the provision of programming, recognizing that a balanced service to listeners could be achieved either by requiring stations to render a well balanced program service or, in metropolitan areas, by means of a number of specialized stations that together offer a balanced service to the public.[7]

3. In 1949, the Commission issued its *Report on Editorializing by Broadcast Licensees*, 13 FCC 2d 1246 (1949), which formalized the Fairness Doctrine and which again stressed, *inter alia*, the duty of all licensees to devote a "reasonable amount of time" to the discussion of public issues. The Commission, however, still did not itself establish precise quantitative standards. Instead, it stated that "it is the licensee . . . who must determine what percentage of its limited broadcast day should appropriately be devoted to news and discussion or consideration of public issues, rather than to the other legitimate services of broadcast."[8] In the next decade, however, the Commission had little opportunity to apply these principles, for very few Fairness Doctrine complaints were brought in which it was alleged that a broadcaster had failed to provide programming responsive to public needs.

4. From the paucity of case law, there arose an understandable confusion and uncertainty among broadcasters and the public as to the precise nature of the broadcaster's public obligations. Accordingly, in 1960 the Commission issued its *Report re En Banc Programming Inquiry*, 44 FCC 2303 (1960) (hereinafter to be referred to as the *"Programming Statement"*). The Commission stated that licensees must "reasonably attempt to meet [the needs and interests of their service areas] on an equitable basis." Thus the licensee's obligation to operate in the public interest primarily involved its "diligent, positive and continuing effort to discover and fulfill the tastes, needs and desires of his community."[9] Further, after listing elements of programming usually necessary to meet the tastes, needs and desires of the community,[10] the Commission went on to say that these elements:

Are neither all-embracing nor constant. We emphasize that they do not serve and have never intended to serve as a rigid mold or fixed formula for station operation. The ascertainment of the needed elements of the broadcast matter to be provided by a particular licensee for the audience he is obligated to serve remains primarily the function of the licensee. His honest and prudent judgments will be accorded great weight by the Commission. Indeed, any other course would tend to substitute the judgment of the Commission for that of the licensee.[11]

5. The Commission also reiterated the inherent limitations of quantitative measurements of licensee performance. Quoting from a 1946 *Public Notice*, the Commission stated:

It should be emphasized that the statistical data before the Commission constitutes an index only of the manner of operation of the station and are not considered by the Commission as conclusive of the overall operation of the stations in question. Licensees will have an opportunity to show the nature of their program service and to introduce other relevant evidence which would demonstrate that in actual operation the program service of the station is, in fact, a well rounded program service.[12]

In short, although the licensee had a clear obligation to serve the public with programming responsive to local needs, the Commission left the licensee with broad discretion in deciding how to achieve that goal. The licensee's discretion was not unlimited, however. The Commission could not sanction a broadcaster's willingness to ignore "a strongly expressed need" that was or should have been known to it.[13] Nor, likewise, could the Commission sanction programming decisions that discriminated against minorities.[14]

6. The Commission's policies on non-entertainment programming were further refined by the adoption of the Broadcast Bureau's current delegation of authority.[15] The guidelines set forth pursuant to that delegated authority,[16] however:

Are procedural rather than substantive. They do not identify a quantity * * * of programming below which no application will be granted and above which all applications will be granted * * * Instead, [they] attempt to make clear the circumstances in which the full Commission, rather than the staff, will evaluate the past or proposed program service of a broadcast applicant. 59 FCC 2d at 491.

Only minor adjustments in the Commission's regulation of non-entertainment programming have occurred since the adoption of these guidelines.[17]

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[1] 3 FRC Ann. Rep. 32, 35 (1929), *aff'd*. 37 F.2d 993 (D.C. Cir. 1930), *cert. dismissed* 281 U.S. 706 (1930).

[2] The first major Commission policy statement on programming involving nonprofit programs, was issued in 1935.

[3] Although this document has never been published in the official Commission reporter series, it has always been publicly available.

[4] *Blue Book*, page 37.

[5] *Id.*, page 10.

[6] The Commission struck this balance because at that time it held the view that a well-balanced program structure could not be assured if programming decisions were influenced primarily or predominantly by either local sponsors or national advertisers.

[7] The Commission made a similar point in discussing revisions of the broadcast application form. *See, Blue Book*, page 58.

[8] 13 FCC at 1247.

[9] 44 FCC at 2316.

[10] The listed elements are: (1) opportunity for local self-expression, (2) the development and use of local talent, (3) programs for children, (4) religious programs, (5) educational programs, (6) public affairs programs, (7) editorialization by licensees, (8) political broadcasts, (9) agricultural programs, (10) news programs, (11) weather and market reports, (12) sports programs, (13) service to minority groups, and (14) entertainment programs. The Commission also concluded that there no longer was a public interest basis for distinguishing between sustaining and commercially sponsored programs in evaluating a station's performance. This constituted a major change in Commission policy toward programming. *Id.* at 2314.

[11] *Id.* at 2314.

[12] *Id.* at 2315–2316.

[13] *Stone* v. *FCC*, 466 F. 2d 316, 328 (D.C. Cir. 1972); *Alabama Educational Television Commission*, 50 FCC 2d 461 (1975).

[14] *Office of Communications of United Church of Christ* v. *FCC*, 425 F. 2d 543 (D.C. Cir. 1969); *Office of Communications of United Church of Christ* v. *FCC*, 359 F. 2d 994 (D.C. Cir. 1966); *Alabama Educational Television Commission, supra.*

[15] *See, Amendment of Part 0 of the Commission's Rules—Commission Organization—With Respect to Delegation of Authority to the Chief, Broadcast Bureau*, 43 FCC 2d 883 (1973); and, *Amendment to § 0.281 of the Commission's Rules: Delegations of the Authority to the Chief Broadcast Bureau*, 59 FCC 2d 491 (1976).

[16] Section 0.281(a)(8)(i) of the Commission's Rules.

[17] One recent change has been to permit Public Service Announcements to count toward satisfaction of the current non-entertainment programming guidelines for all broadcast stations. *See*, FCC 80-557, released October 27, 1980.

Summary of Comments Filed With Regard to the Non-Entertainment Programming Guideline

7. A large number of commenters addressed the issues surrounding the proposal to eliminate the Commission's guideline relative to the amounts of non-entertainment programming that radio stations should provide. Argument and analysis were submitted on many aspects of the proposal ranging from the Commission's legal authority to eliminate the guideline to what specific types of programming might be reduced absent the guideline. In general, those objecting to the elimination of the present guideline fear the loss of certain types of programming which, they believe, have a social benefit that cannot be taken into account by the working of marketplace forces. Regulation, such commenters argue, is necessary to assure the continued provision of such programming. Those favoring elimination of the guideline generally argue that marketplace forces currently require them to broadcast more of such programming than does the Commission s guideline and that, therefore, regulation is unnecessary to assure its continuance. However, a number of those favoring deregulation ask that the Commission provide either an optional standard, or a policy statement setting forth what the Commission would consider superior programming in a comparative proceeding so that a licensee's "legitimate renewal expectancy" would be protected in a deregulated environment. The following is a more detailed summary of these comments.

FCC's Legal Authority To Deregulate With Respect to Programming

8. A number of parties argue that the Commission does not possess the legal authority to deregulate with regard to non-entertainment radio programming. Among those commenting in that regard are Congressman Ronald Mottl, Department of Professional Employees, AFL-CIO, American Civil Liberties Union (hereinafter ACLU; joined by Black Citizens for Fair Media, National Citizens Committee for Broadcasting and National Citizens Communications Lobby), Citizens Communications Center, Committee for Community Access, Classical Radio for Connecticut, WNCN Listeners Guild, Office of Communication-United Church of Christ, Archdiocese of Washington, National Radio Broadcasters Association and the National Telecommunications and Information Administration (hereinafter NTIA). The comments are in basic agreement with NTIA's assertion that the public interest standard in the Communications Act of 1934, as amended, requires the Commission to evaluate programming substantively, at least in connection with comparative proceedings and petitions to deny. Also the guideline is said by some to be necessary to assure compliance with the Fairness Doctrine. ACLU further argues that not only the Act, but also governing case law [*e.g., Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945)], requires a full hearing on license renewal challenges and petitions to deny, in which context programming is contended to be possibly the most important element.

9. On the other hand, Jennings Broadcasting Company avers that non-entertainment programming requirements intrude into licensees' programming discretion and therefore are of dubious legal and constitutional validity, even as mere processing guidelines. Joint Comments filed by the law firm of Dow, Lohnes and Albertson on behalf of several licensees argue that radio deregulation is indeed legal. Their point of view is based on the doctrine of "less drastic means." This, they declare, applies when the government has a legitimate interest in regulation, but the regulation at issue impairs First Amendment rights, and alternative means of promoting the government interest are available. In such circumstances, the government is required to choose the least intrusive means of regulation. In the instant case, they argue, other existing regulations (*e.g.*, the Fairness Doctrine) are less intrusive than processing guidelines, and can work as well. The Department of Justice also supports the legality of radio deregulation, arguing that if agencies have the power to regulate where competition does not work, they surely can deregulate when changed circumstances indicate that competition would work to assure the continued presence of non-entertainment programming.

10. In conclusion, there is dispute in the comments over whether, particularly in light of the public interest standard in the Communications Act, the Commission has the authority to deregulate radio in the area of non-entertainment programming.

Arguments Against Deregulation

Public Trust Doctrine

11. Several parties, including Charles Firestone (on behalf of ACLU), Donna Kaprel, and National Association for Better Broadcasting, take the position that, regardless of the legality of deregulatory action, deregulation would jeopardize the fundamental principle that a broadcast license creates a public trust. United States Catholic Conference and Archdiocese of Cleveland argue that service to the community of license, regardless of its profitability, is part of the trade off for the use of a frequency. UNDA, the National Catholic Association of Broadcasters and Allied Communicators, considers the airwaves a gift of God. Many commenters, most notably the National Association of Black Owned Broadcasters, evince the belief that scarcity continues to be a factor of concern in the radio industry, statements in the *Notice* in this proceeding to the contrary notwithstanding. They assert that the public trust doctrine is the solution to the problem that limited spectrum space, and lack of financial wherewithal, prevent everyone who wants one from owning a broadcast station.

12. Many commenters declare that, under deregulation as proposed in the *Notice*, the public interest would be effectively determined by the majority of radio listeners, but that this does not necessarily correspond to the actual public interest. WNCN Listeners Guild, United Auto Workers, Andy Finn, William Sabio, Maureen Lynch, Pacifica Foundation, United States Catholic Conference, Faith and Life Radio and TV-General Conference Mennonite Church, ACLU and allied parties and Citizens Communications Center argue that the public interest standard involves other values than the mere sum of consumer preferences. Consumer Federation of America and National Sisters Communications Service, among others, state that the market result is but one criterion of consumer well being. American Federation of State, County and Municipal Employees asserts that the economic model inevitably ignores the First Amendment component of the public interest standard which has a value transcending those taken into account by economic analysis.

13. Andy Hughes, Stephen P. Wing, Bonneville International Corporation, Jennings Broadcasting Company and others declare that, to the contrary, market forces would indeed produce a result that reflects the public interest, since the market functions as a straightforward measure of the public's desires. Numerous commenting licensees assert that to remain viable they must serve the needs of their listeners and therefore would continue to provide non-entertainment programming absent the guideline.

Market Failure

14. Related to the above are comments regarding market failure. A number of commenters, chiefly members of the industry, argue that the market can work well to reflect consumer preferences. They aver that the operation of marketplace forces would limit the possibility of market failure as, to remain in business, broadcasters would be forced to provide desired programming.

15. Others, however, claim that a variety of factors would, in a deregulated atmosphere, inhibit a result that truly reflects the public interest and that deregulation would therefore inevitably result in market failure. These factors fall into two general categories: situations where the market does not respond to the preferences of groups that are small in number or that are underrepresented in purchasing power; and situations in which nonmaterial benefits to society as a whole are not reflected in the demands of individual consumers.

16. Examples of such comments abound. Committee for Community Access, for instance, says that scarcity keeps the market from satisfying the preferences of minority groups. Action for Children's Television lists the child audience as an example of a segment of the public with little buying power, whose needs will not be served except via Commission rules. Memphis Black Media Coalition argues that Black consumers are another segment of the public that lacks responsive programming due to low buying power. San Diego Committee on Media avers that because consumers do not pay directly for programming under the present system, the pubic does not have an adequate opportunity to intervene in the market, absent programming guidelines. Robin Carey, Associate Professor of Economics at the College of Staten Island of the City University of New York, discusses the quasi-public nature of radio programming as a consumer good at great length and concludes that certain external benefits, such as intellectual stimulation and broadcast service

to shut-ins and the elderly, will not be reflected in a market-oriented model. Another societal value that several parties complain will not be reflected in the sum of individual consumer preferences is the importance of an informed electorate in a democratic society. For example, Alfonso Caci, Donna Kaprel, Lawrence Wroblewski, Committee for Community Access, and San Diego Committee on Media express concern that radio's service to this end would be curtailed or eliminated without guidelines which are said to have the effect of encouraging a certain amount of informational programming.

Summary

17. The parties disagree whether it violates the public trust principle to deregulate and to let the market govern non-entertainment programming decisions. They further disagree about whether the market will truly reflect consumer preferences and whether or not the concept of the public interest is grounded on more philosophical values that the marketplace concept would not take into account.

Arguments Relating to Specific Types of Programming

18. Most commenters discussed whether or not various types of non-entertainment programming are likely to continue without the processing guidelines.

Noncommercial Stations—Informational Programming in General

19. Several parties representing noncommercial broadcast interests, most notable among them National Public Radio and the Pacifica Foundation, while supporting deregulation in principle, express concern that relaxation of standards regarding informational programming on commercial stations will result in reduction in such programming and a concomitant shift of the burden of providing informational programming to public stations. This, it is contended, would place a financial burden on such stations and, in fact, might violate the Congressional intent for public radio. National Federation of Community Broadcasters believes that noncommercial stations will not be able to adequately shoulder this additional burden, especially given their incomplete penetration levels in many markets. Ohio Educational Television Network Commission states that the deregulation of commercial radio stations would thereby reduce the chance of deregulation of noncommercial stations, and that this would be violative of the doctrine of equal protection. But National Association of Broadcasters, North Carolina Association of Broadcasters and Washington Legal Foundation assert that Congress intended public stations to carry a disproportionately great amount of informational programming, and, thus, they do not see this possible shifting of the burden as a significant hindrance to deregulation of commercial stations.

Diversity

20. Several parties believe that, as a basic matter, the public benefits from diversity on the radio. The Ad Hoc Committee of Organizations for Unique Radio, for instance, says that more than one radio outlet in a market is necessary for diversity in a competitive system, and since this does not exist everywhere, Commission policy must be supported with rules that further such diversity. Faith and Life Radio and TV-General Conference Mennonite Church thinks that diversity would be reduced under deregulation, since majority preferences would govern. Ten Eighty Corporation, to the contrary, says that audiences demand diversity in non-entertainment programming, so it would be provided in an unregulated climate; in any case, it continues, it is really quite simple for listeners to switch stations to find diverse kinds of programs.

News

21. The comments are in wide disagreement about whether it is important that all stations in a market carry news. United States Office of Consumer Affairs asserts that news on all stations is essential to a public policy goal of having an informed citizenry. Committee for Community access argues that since people do not as a rule switch stations to hear news, maintaining an informed electorate requires news on all stations. Douglas Fraser, President of United Auto Workers, regards news on all stations as important because he believes that on any particular station, the news presented is not objective. San Diego Committee on Media also feels that more than one news source in a market is necessary to keep the public well informed. Fisher Broadcasting also believes that each station in a market should bear some of the market's overall burden with regard to producing news.

22. United States Council on Wage and Price Stability, without coming to any conclusion, states that having news available on all stations in a market is a social value, the possible loss of which must be calculated in any cost/benefit analysis of deregulation. WBRE, however, avers that the cost of unwanted non-entertainment programming, presented in response to the Commission's guidelines, must likewise be taken into account, under the existing regulatory configuration. CBS argues that since different communities have different interests, it is unnecessary to require all stations to provide all kinds of programming. North Carolina Association of Broadcasters believes that speciality stations should not be required to cover issues their particular audience has no interest in. While Stephen P. Wing believes that news might disappear from some all-music stations, this, he argues, should not be regarded as problematic since news would continue to otherwise be available on other stations in the market.

23. A number of commenters insist that there would be no news on at least some stations absent Commission guidelines. ACLU and allied parties reason that the relatively high initial cost of wire service encourages that news be broadcast throughout the day, but that without the necessity of incurring that cost initially, news would disappear on many stations. Several other commenters agree in this regard. Classical Radio for Connecticut believes that the expense of local news will contribute to its abandonment, absent regulation. William Seiberlich regards this as an especially serious problem in smaller markets, where radio is the primary local news source. He conducted a three-market survey that purports to demonstrate that the public does not feel it is receiving sufficient local coverage at present in smaller markets. Committee for Community Access and United Auto Workers think that news might be reduced without federal regulations encouraging it. Mr. Fraser, of UAW, takes issue with the Commission's premise in the *Notice* that there is a correlation between the greater number of commercials and news broadcasts during morning drive time. He believes that this theory is contradicted by the fact that there are fewer commercials at other times when news is broadcast. He also asks what point there is in eliminating the guidelines, if they in fact follow listener preferences anyway.

24. National Black Media Coalition believes that news would continue without regulation, except possibly in small markets. National Association of Broadcasters states that news is indeed expensive to provide, but is cost effective, because it is popular, and cites studies that indicate that news would continue, absent Commission guidelines. Others, including the Justice Department, Don Self, Stephen P. Wing, CBS and Washington Legal Foundation, agree that news would continue, on most stations, in an atmosphere governed by competition absent Commission regulation.

Public Affairs

25. A number of comments express concern that public affairs programming, because it is generally unprofitable, would be abandoned under deregulation. Among those sharing this belief are Allen Kratz, Mrs. Thomas J. O'Neill, William Sabio, National Public Radio, Classical Radio for Connecticut, Committee for Community Access, Archdiocese of Cleveland, Memphis Black Media Coalition, National Congress of Parent/Teacher Organizations, National Sisters Communications Service, Spanish Speaking/Surnamed Political Association, United States Catholic Conference, WNGN Listeners Guild, National Education Association and United Auto Workers. National Black Media Coalition estimates that one- to two-thirds of stations would sustain a reduction in such programming. These commenters, along with Metro-Act of Rochester, Paralyzed Veterans of America and California Association of the Physically Handicapped, and San Diego Committee on Media, see a great value in public affairs programming, and believe that society as a whole would suffer a loss, were it reduced. Entertainment Communications, Inc. says that although this kind of programming may be in the public interest, it is hard to understand how an unregulated competitive market would ensure its continuation, because it is unpopular.

26. National Radio Broadcasters Association thinks it is unlikely that deregulation would result in less public affairs programming, but acknowledges that it is difficult to find evidence to support its intuition. Don Self, on the basis of an informal survey conducted in the Chattanooga market, states that there might be some reduction in public affairs

programming under deregulation, but that the quality of what remains is likely to be improved, because broadcasters would no longer be producing it just to fulfill Commission requirements. Others including the Justice Department, John Morrill, Haley, Bader and Potts, KGY, King Broadcasting Company, Nationwide Broadcast Company, Ohio Association of Broadcasters and Salt Lake City Radio Market Broadcasters Association, assure us that public affairs programming would continue in a competitive environment, because it is good business and the public demands it.

Minority Interest Programming

27. A great many parties emphasize the importance of radio's service to minority groups in the community, including the elderly, youth, low income groups and racial and ethnic segments of the community. There is a general belief, shared by numerous commenters,[18] that the current guidelines help to ensure service to such groups vja public affairs programming, but that without the guidelines such groups would no longer be served as well, even on stations that air entertainment programs for specialized audiences.

28. CBS points out that even with guidelines, all minorities in a community inevitably will not receive specialized radio programming. NAB adds that there are no present requirements that low income, elderly or minority groups receive specialized service, and that the extent to which they do now would probably continue under deregulation. American Women in Radio and Television, while favoring deregulation, encourages the Commission to continue to expand diversity through structural means such as ownership and staffing regulations, to ensure adequate programming for women and minorities. Stephen P. Wing assests that in large markets specialized programming would continue; he asserts that since there are so many stations, it is profitable for stations to program to smaller segments of the community thus permitting minority tastes and interests to be fulfilled. Others, mostly consisting of members of the industry, are convinced that a certain amount of specialized programming would continue under deregulation.

Local Programming

29. Some commenters are also concerned about locally originated programs. Many, including Fisher Broadcasting, United Church of Christ, United States Catholic Conference and National Association of Black Owned Broadcasters, believe that local programming is an important element of the public interest standard. Some feel that regulation is the only effective means of ensuring adequate local programming. Among them are John Kupiec, Classical Radio for Connecticut, Faith and Life Radio and TV-General Conference Mennonite Church, Puerto Rican Legal Defense and Education Fund and San Diego Committee on Media. Their reason is basically that it is more expensive to produce programs locally than to purchase syndicated or network programming, which is an incentive for broadcasters to forego local programming unless required to air such by regulations. There is particular concern regarding the newly emerging ethnic enclaves within larger metropolitan areas, which are discussed in the *Notice*.

30. A number of licensees argue that broadcasters are committed to local involvement, out of both public spirit and good business sense. Marin Broadcasting Company believes that deregulation would result in increased local programs, to replace nonlocal public affairs programs which are now aired only to meet the processing guideline.

Public Service Announcements

31. Some comments express concern that deregulation could result in the loss of public service announcements. Several parties, including Classical Radio for Connecticut, Archdiocese of Cleveland and National Black Media Coalition, appear to believe that present Commission rules require stations to air PSAs. (This belief is shared by literally thousands of other formal and informal commenters.) Others, such as Mrs. Thomas J. O'Neill, Southern California Committee for Open Media, American Council on Education and Council for the Advancement and Support of Education, imply merely that the present regulatory climate enhances the likelihood that PSAs will be aired, and foresee their loss under deregulation. Catherine Jensen of the United States Department of Agriculture, David Persse, Massachusetts Coalition of Citizens with Disabilities, and Massachusetts and New York chapters of the National Organization for Women emphasize the importance of PSAs and community bulletin boards to citizens groups and nonprofit organizations. William Sabio believes that the Commission should, by rule, require PSAs.

32. National Association of Broadcasters points out that there is no PSA requirement at present, contrary to the inference of some comments. ABC, echoing this, asserts that PSAs are aired anyway, as part of broadcasters' adherence to the public interest standard. Station KGY argues that PSAs are aired because it is good business, not because of rules, and that competition would ensure that this would continue, even under deregulation. Georgia Association of Broadcasters avers that PSAs can indeed fill community needs, even though they do not currently fall within the categories of the processing guidelines.

Access

33. Some parties argue that the public affairs element of the processing guidelines helps to assure access to the airwaves to community groups and nonprofit organizations. Among those commenting in this vein are Maureen Lynch, Public Interest Communication Services and American Council on Education and Council for the Advancement and Support of Education. There is some concern, voiced by National Education Association, National Council of Churches and others, that access would be curtailed under deregulation. Indeed, UNDA, the National Catholic Association of Broadcasters and Allied Communicators, argues that nonprofit organizations should have a right of free access to the airwaves. David Beauvais would like to see access channels available to all citizens free of charge. National Citizens Committee for Broadcasting (NCCB) puts forth the concept of an "Audience Network," whereby all stations would donate five percent of their airfime for the purpose of public access.

34. National Association of Broadcasters points out that currently there is no right of access mandated under Commission rules or policies.

Summary

35. In sum, broadcasters, trade associations and other members of the industry are generally of the opinion that news, public affairs, local programs, programming for specialized audiences and diverse kinds of programming would continue, absent Commission regulations encouraging such, because the public interest standard requires it and consumer demand for it makes it good business policy to air such programming. On the other hand, a number of individuals, consumer groups and nonprofit organizations believe it is the non-entertainment guidelines that control whether such programming is aired, that it would be reduced or abandoned without them and that society as a whole, as well as individuals, would suffer from this loss.

Arguments in Support of Deregulation of Programming

Burden on Licensees

36. A number of comments especially by industry members complain that the burden of compliance with existing regulations is not justified by any concomitant benefits. National Public Radio, Haley, Bader and Potts, Jennings Broadcasting Company, King Broadcasting Company, National Association of Broadcasters and American Federation of Small Business concur that the cost to the public, the government and licensees of non-entertainment guidelines outweighs the benefits. Billboard Broadcasting Corporation, among others, cites the burdensome nature of the paperwork necessitated by reporting requirements connected with the guidelines.

37. Committee for Community Access, in reply comments, takes issue with NAB's assessment of the cost of compliance with federal regulations. ACLU and allied commenters argue that the cost to the government of enforcement of the guidelines is minimal.

Fairness Doctrine

38. Several parties state that they believe that the Fairness Doctrine could adequately take the place of non-entertainment programming requirements. NTIA, for example, points out that the public interest standard would continue to require enforcement of the Fairness Doctrine, even under deregulation. The Justice Department agrees that the Fairness Doctrine would continue to ensure that informational

[18] *E.g.*, Allen Kratz, John Kupiec, Robin Carey, Robert Monaghan, Lawrence Wroblewski, Charles Firestone, Ad Hoc Committee of Organizations for Unique Radio, ACLU and allied parties, Classical Radio for Connecticut, Committee for Community Access, Memphis Black Media Coalition, National Association of Black Broadcasters, Puerto Rican Legal Defense and Education Fund, Spanish Speaking Surnamed/Political Association, United Church of Christ, and WNCN Listeners Guild.

programs are aired, at least with respect to controversial issues. Jennings Broadcasting Company proposes that the Fairness Doctrine be modified to be less intrusive into program content, absent clear proof of its efficacy.

39. Committee for Community Access complains that greater Fairness Doctrine enforcement would be necessary, without non-entertainment programming guidelines, and that this actually would be more intrusive than the present system. WNCN Listeners Guild believes that licensees would not meet the first half of the Fairness Doctrine, absent guidelines requiring public affairs programming.

Summary

40. Licensees generally argue that: (1) the relevant data indicate that competition would work to provide adequate non-entertainment programming in most categories, absent Commission guidelines; (2) the burden of compliance with the guidelines is an additional factor which supports their elimination; and (3) other Commission rules and policies, including the Fairness Doctrine, also serve to ensure that the public's needs and interests with regard to informational programming are met.

Suggested Remedies

Market-wide Standards

41. Most comments are critical of any regulatory change that would have the effect of imposing standards on a market as a whole. Fisher Broadcasting is joined by Marin Broadcasting Company in the opinion that such rules would be unenforceable, since the FCC does not license markets, but individual stations. ACLU and allied commenters concur. Indeed, Marin and NAB feel that market-wide regulation would unfairly penalize responsible licensees for the failings of other licensees in the market. National Public Radio believes market-wide regulation would require the Commission to exercise control over format changes, but would provide no means of ensuring adequate performance from individual licensees. Classical Radio for Connecticut feels that market-wide standards would effectively do away with specialized programming that meets the needs of intramarket groups. National Congress of Parent/Teacher Organizations and National Association of Black Owned Broadcasters think that local programming, which is properly the responsibility of individual licensees, would be neglected. Georgia Association of Broadcasters asserts that market-wide standards applied across the board in all markets would discriminate against small market stations, which would have to shoulder a proportionately greater burden than their large market counterparts. This group does believe, though, that market-wide standards would relieve stations not geared to provide public affairs programming of this burden in markets where all-news stations fill that role.

Legitimate License Renewal Expectancy

42. A number of licensees and industry members argue that, although they favor deregulation, they believe the Commission should articulate some standard, mandatory or otherwise, by which licensees could assure via performance that their license would be renewed. Among those taking this position are the National Radio Broadcasters Association and Station WISM. Committee for Community Access, Fisher Broadcasting and Wismer Broadcasting all allege that it is unfair to licensees not to inform them in advance as to what the Commission expects of them. Several commenters favor nonmandatory non-entertainment programming guidelines, adherence to which would ensure the likelihood of prevailing in a license renewal contest. Among them are Entertainment Communications, Inc., Ten Eighty Corporation and the Tribune Company. Bonneville International Corporation suggests that the Commission adopt a standard of quality programming, as determined by the licensee, as an element of operation in the public interest. Susquehanna Broadcasting Company supports a content-neutral standard, such as the relation between ascertained needs and programming. NAB argues vehemently on behalf of licensee stability, encouraging adoption of a "1980 Programming Policy Statement," based on compliance with the Fairness Doctrine and other Commission rules, under which a license would be renewed absent a pattern of abuse or serious dereliction. NAB believes that some evaluation of past performance is necessary in defining a renewal standard, but that this should not be attempted with mathematical precision. Joint comments filed by Dow, Lohnes and Albertson on behalf of several licensees also suggest adherence to other Commission rules, such as the Fairness Doctrine, access for political candidates, equal opportunity employment and lowest unit charge rules, as ensuring a license renewal expectancy. CBS likewise opposes non-entertainment standards *per se*, but advocates an articulation of a reasonable nonquantitative guideline defining operation in the public interest for license renewal purposes. ABC presses for a definition of adequate past performance, to be phased in over time, which would specify a number of hours of non-entertainment programming (including PSAs), adherence to which would preclude comparative proceedings on renewal.

43. The Department of Justice argues that it is illegal to use programming as such a criterion, since that would amount to affording the incumbent a vested right to the license.

Comparative Challenges

44. Broadcasters and citizens groups alike believe that programming standards are essential in comparative evaluations. NTIA, Committee for Community Access, United States Catholic Conference, WNCN Listeners Guild, Entertainment Communications, Inc. and Plough Broadcasting Company are among those adhering to this viewpoint. National Public Radio believes that licensees should have the option of reporting programming in comparative proceedings. North Carolina Association of Broadcasters argues that non-entertainment programming should only become an issue in the comparative context if the incumbent raises it, because it is unfair for the Commission to let the market determine programming levels initially and then make an after-the-fact determination that the market mandated too little.

45. Marin Broadcasting Company thinks that non-entertainment programming should not be considered in comparative proceedings, absent compelling evidence that the licensee failed to serve the public. Wismer Broadcasting believes that there should be no comparative challenges based on non-entertainment programming levels, and the Justice Department likewise thinks that comparative challenges should be resolved only on the basis of nonprogram criteria.

Petitions To Deny

46. A number of individuals and citizen groups complain that deregulation would remove programming as a ground for a petition to deny, and thus deprive the public of a most important weapon to ensure broadcaster accountability to its needs and interests. These commenters include Stewart Hoover, Mrs. Thomas J. O'Neill, ACLU and allied commenters, Memphis Black Media Coalition, National Black Media Coalition and United States Catholic Conference. Committee for Community Access objects to the suggestion, which it asserts was made in the *Notice*, that past performance may be raised only at the behest of an incumbent, and insists that petitioners must also be afforded the opportunity to address the issue of non-entertainment programming.

47. The bulk of licensees commenting on this issue believe that non-entertainment programming should no longer be a basis for a petition to deny. These include Bonneville International Corporation, joint comments filed by several licensees, Marin Broadcasting Company, Susquehanna Broadcasting Company and Wismer Broadcasting. Susquehanna does feel that an incumbent should be able to raise the relationship of ascertainment results to program performance, in order to show excellence in meeting community needs, when faced with a renewal challenge.

Format Change Amendment

48. Three parties, Ad Hoc Committee of Organizations for Unique Radio, WNCN Listeners Guild and NAB, oppose the amendment of the format change delegation proposed in the *Notice*.[19]

Suggested Solutions

49. Among comments favoring Option 1, elimination of non-entertainment programming guidelines, are those of CBS, Haley, Bader and Potts, Marin Broadcasting Company, NAB, WBRE Radio and Stephen P. Wing. Mr. Wing feels that Option 1 is preferable to Option 6, which is his second choice, because it would lessen regulation where marketplace forces would assure continued non-entertainment programming. ABC also favors elimination of mandatory non-entertainment programming

[19] The reference in Appendix B of the *Notice*, to Section 0.281(2)(9) of the Commission's Rules was through inadvertence. The entire question of the Commission's role with regard to format changes is currently before the United States Supreme Court, in *F.C.C. v. WNCN Listeners Guild et al.*, Case Nos. 79-824, 79-825, 79-826, and 79-827.

requirements, but encourages, nevertheless, adoption of a quantitative standard that will establish a legitimate license renewal expectancy. United Church of Christ likewise supports elimination of the guidelines (with Option 6 as its second choice) providing the Commission substitutes an alternative plan. Asserting that Option 6 may be too simplistic a measure to be the basis of a conclusive license renewal determination, UCC suggests that the Commission give credit for service to local needs to stations contributing at least five percent of gross revenues to nonprofit organizations for production of local public affairs programs. NAB believes this proposal to be illegal. In addition, UCC proposes a Commission policy that all markets have local news on at least two outlets [a station could not drop local news if it would bring the total below two], and asks (1) that the Commission encourage stations serving specialized audiences to air news of interest to the particular audience and (2) that the Commission require a minimum amount of local PSAs, to be aired at all times during the day.

50. National Association of Black Owned Broadcasters and Memphis Black Media Coalition would like to see the present guidelines retained fearing a reduction in non-entertainment programming in their absence. Archdiocese of Cleveland likewise advocates retention of the guidelines at present or higher levels, up to thirty percent "informed electorate programming" per day (two thirds of this to be local), with thirty percent of that to be aired during prime time (again, two thirds to be local).

51. Fisher Broadcasting favors Option 6, with its emphasis on local service, and seeks a reduction in the number of formal categories of programming, to provide greater flexibility for licensees. Public Interest Communications Service also prefers Option 6 to Option 1. Puerto Rican Legal Defense and Education Fund advocates a combination of Options 4 and 6, emphasizing local programming, with quantitative standards for each category. AFSCME would have the Commission choose Option 5 or 6, approving of Option 5's linking of commercial success with reinvestment in informational programming, but still retaining flexibility with respect to specific programming decisions. Faith and Life Radio and TV-General Conference Mennonite Church also finds Option 5 attractive. Religious Media Ministry would like to see a combination that relates public service programming to profit motivation: a specified percent of time allocated to local public service programming aired at reasonable times during the day, with a specified percent of the station's operating budget to be spent thereon. NCCB proposes the creation of an "Audience Network." The network would be a national organization that citizens could join for a fee. The Commission's involvement would be by way of mandating that a certain proportion of the broadcast day of each station would be turned over to the audience network. The Commission would also set standards as to when, during the day, such "Audience Network" time would occur. The board of directors of each local chapter would appoint "professional management" to produce programming in accordance with the mandate of the members, "as expressed through the board."

52. Department of Professional Employees, AFL–CIO, would like the Commission to designate required percentages of non-entertainment programming, based on the size and nature of the particular community, as well as the programming provided on other stations in the market and the listening habits of the public. The Media Reform Committee of the California chapter of the National Organization for Women favors a combination of Options 4, 5 and 6, in the form of guidelines specifying amounts of public service programming as a percent of time and money, with flexible categories, but requiring some programming in each category. National Congress of Parent/Teacher Organizations favors time-oriented (in percents or absolute amounts), as opposed to monetary standards, since a monetary standard could be filled with undesirable nonlocal or wire service programming, which would comply with the letter but not the spirit of the rule.

53. National Black Media Coalition does not believe guidelines to be necessary for news or religious programming, but supports a six percent standard for local public affairs, PSAs and public access programming (editorial replies and free speech messages), on both AM and FM stations, not to be aired between midnight and 7 AM on weekdays and midnight and noon on weekends. Committee for Community Access, noting that broadcasters seem to desire guidelines, suggests a rule requiring eight percent locally-produced news, public affairs, and PSAs, to be aired at reasonable times on both AM and FM stations. United States Catholic Conference opts for a ten percent processing guideline for AM and FM stations alike, outlining broad categories of non-entertainment programming, which would encourage but not require local programming and give special credit for sustaining time donated to nonprofit organizations.

54. Station WISM favors, as the *sine qua non* of license renewal, a minimum percent requirement for local public service programming, which may be met with local news, public affairs, PSAs, community bulletin boards and other locally-produced non-entertainment programming. United States Office of Consumer Affairs also believes that the Commission should adopt minimum separate percentages for news and public affairs, to be aired whether in all day parts or between 6 AM and midnight. ACLU and allied commenters would like to see the same minimum percentage requirements for local public service programming applied to both AM and FM stations. They would define "local" as produced in or around the city of license, and also encourage the Commission to stress that such programming should be aired at high audience times (by requiring, for instance, that programs aired during "graveyard" hours may only be counted toward one quarter of the total). Finally, they state that the Commission should deregulate with regard to non-entertainment programming only on an experimental basis and in markets that are not "saturated," that is, where additional stations are available on a "drop-in" basis.

55. National Radio Broadcasters Association favors the present six and eight percent processing guidelines, applied directly as rules, to be decreased in three minute increments as a station goes from 18 to nine minutes of commercials. Fulfillment of this standard with all kinds of non-entertainment programming aired throughout the day would comprise a *prima facie* case for operation in the public interest, rebuttable by substantial evidence to the contrary. NRBA adds that the Commission might give nonentertainment program credit for PSAs, as a means of encouraging them. NAB believes this rule would be inconsistent, if commercial time standards are eliminated. Committee for Community Access thinks the non-entertainment program levels proposed are inordinately low.

56. NTIA would define non-entertainment programming broadly, and apply a six percent standard as a minimum for license renewal. NTIA also suggests that ten percent, aired between 6 PM and midnight, be considered a substantial amount that entitles an incumbent to preference in a comparative case. NTIA would except "beautiful sound" stations, *i.e.*, those that air fewer than four minutes of commercials per hour on weekdays, and require only four percent informational programming from them. These percentages are merely suggestions based on the available data; NTIA would have the Commission develop more sophisticated statistics from which to derive percentages. NTIA suggests that this kind of standard could also be used for Fairness Doctrine purposes. Committee for Community Access approves this result; however, United Church of Christ objects that it does not distinguish between local and nonlocal informational programming.

Summary

57. In conclusion, it appears that a number of parties, especially industry members, who otherwise favor deregulation, nevertheless support the concept of non-entertainment programming guidelines (often as voluntary guidelines) imposed on an individual basis, either as entailment of the public interest standard in the Communications Act, or because licensees are entitled to know what is expected of them and how to ensure license renewal in a comparative context. In addition, a number of those commenting stress locally produced and oriented programming as an important component of any nonentertainment program standard.

Discussion of the Major Issues Raised

58. Having set forth a summary of the comments filed with regard to the Commission's proposals relative to the nonentertainment programming guideline, we turn now to a discussion of the major issues raised in opposition to its elimination.

59. As noted in the section above regarding the comments in this area, there was a significant controversy relative to this portion of our original proposal. Questions were raised with regard to our legal authority to eliminate the guideline, fears were expressed as to the behavior of the market without the guideline, and problems were highlighted with reference to the effect of the guideline's elimination on the comparative hearing

process and the petition to deny process. Many commenters expressed the fear that absent the guideline, programming directed to "economically insignificant" segments of society—those that it was presumed would not be attractive to advertisers—would disappear. Other commenters, chiefly from the broadcast community expressed the fear that elimination of the guidelines would interfere with their "legitimate renewal expectancy." Several minor issues, such as a claim that stations would tend to automate absent the guideline, were also raised in the comments. Such issues, having no decisional significance, are not treated below.

Authority to Conduct the Proceeding

60. Several of those commenting contended that the Commission was without authority to make the subject proposals, especially with regard to the elimination of our non-entertainment programming guideline. No party seriously contests the Commission's ability to undertake rule making proceedings as a general matter. Section 4(i) of the Communications Act of 1934, as amended, settles the matter as to the Commission's ability to conduct rule making proceedings.[20] It is claimed, however, that the elimination of our non-entertainment programming guideline would be contrary to established law and, therefore, we may not take that action within the context of a rule making proceeding. In this regard a number of cases are cited to the effect that programming is a vital area in which the Commission has authority to regulate and that the elimination of programming requirements would destroy the comparative renewal process.

61. We continue to believe that the Communications Act and judicial precedent supply the Commission with sufficient authority to consider the elimination of the non-entertainment programming guidelines and, in fact, to actually eliminate it should the record support such a conclusion. It goes without saying that the Commission has the authority to regulate in the programming area and to adopt such guidelines as those currently in effect. That authority was vindicated in many of those cases cited by commenters. However, having the authority to do something is considerably different from having a requirement to exercise the authority. In the context of the nonentertainment programming guideline some additional historical review is instructive.

62. Neither the Commission nor its predecessor agency, the Federal Radio Commission (FRC), historically relied on percentage guidelines to assure that non-entertainment programming was present. In fact, from the earliest, a bias against such guidelines was demonstrated. In 1929, for example, the FRC stated with regard to various types of programming, including nonentertainment, that:

(t)here are differences between communities as to the need for one type (of program) as against another. The Commission does not propose to erect a rigid schedule specifying the hours or minutes that may be devoted to one kind of program or another. What it wishes to emphasize is the general character which it believes must be conformed to by a station in order best to serve the public.[21]

The FRC went on to state what might well be construed as an accurate description of a marketplace theory noting that it expected that the amounts of programming aired would vary as between stations based on the number and types of other radio services available (especially clear channel stations), the amount of capital available to the station for programs, the coverage area of the station, and disparities in population. In other words, while the Commission was concerned with the types of programs offered by stations, and stated its belief as to what types of programs were necessary to constitute operation in the public interest [22] it did not believe that the imposition of nationally applicable standards as to the amounts of such programming was necessary, or even desirable.

63. This approach remained relatively constant until the adoption of the current delegations of authority to the Chief, Broadcast Bureau, in 1973. For instance, the 1946 *Report on Public Service Responsibility of Broadcast Licensees* (the so-called "Blue Book") refrained from specifying particular amounts of time to be devoted to programs involving the discussion of public issues. Rather, it recommended that "adequate" amounts of time be devoted to such programming without specifying a uniform amount to be presented by each station. Similarly, the *Programming Statement* [23] left it to licensee discretion to decide how much programming of each of the fourteen programming elements, necessary to service in the public interest to present. The Commission clearly stated that the elements were not all embracing nor constant and were specifically not intended to serve as a rigid mold. Rather, the "honest and prudent" judgments of the licensee were held to be entitled to great weight.[24]

64. Indeed, more recently it has been stated with regard to quantitative guidelines in the comparative application context, that such guidelines are "a simplistic, superficial approach to a complex problem," and that there is:

(n)othing in the Communications Act (that) imposes any requirement that the FCC promulgate quantitative programming standards. In granting broadcast licenses the FCC must find that the "public convenience, interest or necessity will be served thereby." (Citation omitted) Within these broad confines, the Commission is left with the task of particularizing standards to be used in implementing the Act.[25]

While this is not to say that we may not impose such standards or that they would be unlawful or unwise in every case, it is further evidence of this historical preference to avoid such standards unless asbolutely necessary. Given this background, the argument that the Commission cannot legally eliminate the current guidelines simply does not have any basis. Indeed, the guidelines, currently embodied as delegations to the Chief, Broadcast Bureau, were adopted without the benefit of a broad public inquiry as we have under consideration in this proceeding.

65. While there historically has been a bias against enacting programming guidelines, the Commission did adopt non-entertainment processing guidelines when it amended the Broadcast Bureau's delegations of authority in 1973. [*Amendment of Part O of the Commission's Rules—Commission Organization—With Respect to Delegation of Authority of the Chief, Broadcast Bureau*, 43 FCC 2d 638 (1973)]. Having concluded that such a change was at that time in the public interest, we must now inquire as to whether they remain so and, if not, whether the public interest standard is sufficiently flexible to permit the elimination of that guideline.

66. As we explained in the *Notice*, the courts historically have been generous in their interpretation of the authority of the Commission to change its position. In that regard, we reiterate the Supreme Court's statement,

And so Congress did what experience had taught it in similar attempts at regulation, even in fields where the subject-matter of regulation was far less fluid and dynamic than radio. The essence of that experience was to define broad areas for regulation and to establish standards for judgment adequately related in their application to the problems to be solved.[26]

Therefore, the Court concluded, Congress acted deliberately in failing to provide an itemized list of specific manifestations that the Commission could or should regulate. Rather, it provided a large framework within which the Commission has the authority to respond to changing circumstances.

67. Also cited in the *Notice* was *Pinellas Broadcasting Company* v. *FCC*,[27] wherein Judge Prettyman clearly set forth a broad construction of the Commission's authority in changing previously held attitudes about what is prohibited or required by the public interest standard.

And it is also true that the Commission's view of what is best in the public interest may change from time to time. Commissions themselves change, underlying philosophies differ, and experience often dictates changes. Two diametrically opposite schools of thought in respect to the public welfare may both be rational. . . . All such matters are for the Congress and the executive and their agencies.

68. Similarly, with regard to the Interstate Commerce Commission's ability to alter past decision, the Supreme Court has stated:

[20] That Section states, in pertinent part, that the Commission has the authority to, ". . . perform any and all acts, make such rules and regulations and issue such orders, not inconsistent with this Act, as may be necessary to the execution of its functions."

[21] 3 F.R.C. Ann. Rep. 34, Statement of Facts and Grounds for Decision, *Great Lakes Broadcasting Co. et al.* v. *Federal Radio Commission*, Cases Nos. 4900, 4901 and 4902, in the Court of Appeals for The District of Columbia, p. 35 (1929).

[22] *Id.*, at 28 and 36.

[23] 44 FCC 2d 2303 (1960).

[24] *Id.*, at 2314.

[25] *National Black Media Coalition* v. *FCC*, 589 F.2d 578, 580–581 (D.C. Cir. 1978).

[26] *National Broadcasting Company* v. *United States*, 319 U.S. 190, 219–20 (1943).

[27] 230 F.2d 204, 206 (D.C. Cir. 1956), *cert. denied*, 76 S. Ct. 650 (1956).

. the (Interstate Commerce) Commission, faced with new developments or in light of reconsideration of the relevant facts and its mandate, may alter its past interpretation and overturn past administrative rulings and practice.

* * * * *

In fact, although we make no judgement as to the policy aspects of the Commission's action, this kind of flexibility and adaptability to changing needs and patterns of transportation is an essential part of the office of a regulatory agency. Regulatory agencies do not establish rules of conduct to last forever; they are supposed, within the limits of the law and of fair and prudent administration, to adapt their rules and practices to the nation's needs in a volatile, changing economy. They are neither required nor supposed to regulate the present and the future within the inflexible limits of yesterday.[28]

69. The foregoing merely is to say that while the Commission historically has been concerned with types of programming presented, and while the Courts have sustained the Commission's authority to apply its concerns in that regard, there is not a longstanding historical basis, nor judicial requirement, for nationally imposed programming guidelines. In truth, there has been an historical bias against the imposition of such guidelines and a judicial support for the Commission's reluctance to impose them Certainly, too, the courts have given the Commission wide discretion to reevaluate its prior holdings so long as departures from prior precedents are discussed and the bases for the departures are carefully spelled out.[29]

70. While the Commission has the authority to adopt nonentertainment programming guidelines, it is a mistake to believe that it lacks authority to discontinue them should it conclude that the record supports such elimination. The theoretical basis for the proposal to eliminate the current guideline (which was supported by the data compiled by the Commission and several commenters) was that marketplace forces would continue to assure that significant amounts of the subject programming would continue to be available to listeners even absent the guideline. We certainly believe that it is desirable to re-evaluate our rules from time to time and to investigate whether the premises behind the rules remain valid and whether or not there are other, less burdensome and costly, methods by which to achieve the ends intended. We therefore conclude that we have the authority to investigate, and if the record warrants to eliminate, our current guidelines.

Economic and Statistical Discussion Relative to the Guideline's Elimination

71. Many commenters expressed the view that nonentertainment programming would either be cut back or eliminated subsequent to elimination of the nonentertainment guideline. A variation of this theme was voiced by those who thought that certain groups or individuals would have a more difficult time gaining access to the radio medium.[30] Absent any guideline requiring some minimum level of nonentertainment programming, we would expect demand for and supply of this programming to determine the amount that is broadcast. Once an adjustment period had passed, we would expect an equilibrium amount of this kind of programming to be established. This equilibrium would reflect both the desires of the listeners and the costs of providing the service as well as the sensitivity of listeners to substitute uses of the broadcast time and substitute sources of information.[31]

72. Under a pure marketplace approach the equilibrium level of programming could then be compared to some standard to determine whether the market was producing at least the amount of programming thought to be minimally required by listeners. As noted above, however, the Commission currently has a nonentertainment programming guideline. In analyzing the effect of that guideline, one can posit that if the stations exceed that minimum by a substantial amount it can be inferred that the guideline is superfluous. If the market is generating programming in excess of the required minimum amount mandated by the Commission, then there is no reason to expect a reduction in that programming subsequent to removal of the guideline.[32]

73. Having set forth this basic statement we turn to an examination of the evidence presented in the record. Few commenting parties presented formal studies of the amount of nonentertainment programming broadcast by radio stations. The NAB, for instance, undertook a study of small market (either a single AM–FM combination or a single station) broadcasters.[33] Their findings were remarkable in that the FM stations devoted an average of 20.9% of their time to nonentertainment programming, while the AM stations surveyed devoted an average of 27.5% of their broadcast time to nonentertainment programming.[34] In their reply comments, NAB provided the results of a second study, similar to the first except that it included radio stations for all markets regardless of size.[35] The results of this study are comparable to the small market study. No market size class showed an average level of nonentertainment broadcasting below 22.7% for AM stations or 15% for FM stations.[36] Clearly the results show that time devoted to informational programming greatly exceeds the current guideline. Further, public affairs programming is produced in substantial quantities in all market classes and for both AM and FM stations. The quantity of public affairs programming ranges from an average of 3.4% of all programming in the largest AM markets to 2.8% in the smallest, while for FM the range is from 2.4% in the largest market class to 1.8% in the smallest market class. These data confirm the data developed by Commission staff in the *Notice*.[37]

74. J. Jerome Lackamp, writing for the Diocese of Cleveland, submitted a substantial study of the Cleveland radio market as it evolved over a 12 year period.[38] This study was developed by Mr. Lackamp for his use and was attached to his comments on behalf of the Diocese of Cleveland so that the data would be available for examination by others. These data allow an analysis of the market for two renewal periods prior to implementation of the processing guidelines (1967–1973) and two renewal periods following introduction of the guidelines (1973–1979). The single most significant finding concerns the amount of nonentertainment programming broadcast on both AM and FM stations. For both classes of radio stations, the average level of nonentertainment programming greatly exceeded the processing guidelines both prior to and following introduction of the guidelines. As can easily be seen by examining Table 1,

Table 1.—*Percent of the Broadcast Day Devoted to Nonentertainment Programming*

Source: Diocese of Cleveland, Exhibits 1–4

	1967–70	1970–73	1973–76	1976–79
AM	20.9	22.5	23.8	24.4
FM	11.0	11.3	10.7	10.4

[28] *American Trucking* v. *Atchison, Topeka and Santa Fe Railway Co., et al.*, 387 U.S. 397, 416 (1967)

[29] See, for instance, *Teamsters Local Union 769* v. *NLRB*, 532 F. 2d 1385, 1392 (D.C. Cir. 1976) and *Food Marketing Inst.* v. *I.C.C.*, 587 F. 2d 1285, 1290 (D.C Cir. 1978).

[30] For an example of the former view see comments of the American Federation of State, City and Municipal Employees. An example of the latter is the comment of the U.S. Catholic Conference.

[31] Of course, as listener tastes change over time the market will continue to adjust the supply of different types of programming to these changes in demand.

[32] The broadcasters could be protecting against the risk of a challenge to their license by programming in excess of the minimum. To make this argument, however, requires a showing first that there is a risk; and second, that the excess programming equals in amount the assessed risk (measured in percent of broadcast day).

[33] Comments of NAB, Appendix A.

[34] The station averages by type of programming were (Id. at 4):

	Percentage		
	News	Public affairs	Other
AM	14.3	3	10.2
FM	11.2	2.3	7.4

[35] Reply Comments of NAB, Appendix A. Their methodology involved developing a stratified random sample drawn from four market size categories.

[36] *Id.*, at 3. For all stations in the sample the results are:

	Percentage			
	Over 500,000	100,000 to 499,999	15,000 to 99,999	Below 14,999
AM	23.9	24.4	22.7	27.6
FM	15	19.9	17	18.5

[37] *Notice* at paras. 181–182 and Tables 14A–16C.

[38] Comments of the Diocese of Cleveland, Exhibits 1–4. Each exhibit presents data gathered from composite week logs for each AM and FM station in the Cleveland market for four three year renewal periods: 1967–70, 1970–73, 1973–76, and 1976–79.

the programming in Cleveland closely resembles the averages found in both the FCC and NAB studies.[39]

75. Partial data were provided regarding the proportion of news programming that was devoted to local and regional issues. The average for the AM stations was always at least 54 percent while the average for FM stations was at least 37 percent.[40] The final point to be made is that the data exhibit no perceptible effect stemming from the guidelines. From this it is reasonable to infer that nonentertainment programming will not be substantially adversely affected by removal of the processing guideline.

76. The *Notice* provides additional confirmation to the argument that the market would support substantial informational programming in the absence of the guideline. First, the distribution of news programming is most pronounced during the drive time hours—hours that draw both the greatest number of listeners and, as a result, the greatest amount of advertising. This, as the *Notice* points out, suggests that news programming is both profitable and desired by listeners. Second, with the exception of Sunday evening early Monday morning and both early Saturday and early Sunday mornings, public affairs programs are more or less randomly distributed and there is no significant trend toward placing public affairs broadcasting in time slots with little or no advertising time.[41] The fact that some advertising coexists with this programming suggests that there is at least some listener support even for public affairs programming.[42]

77. The NTIA, while not attacking the *Notice's* conclusions, argues that the nonentertainment data would be more complete if data on the "other" category of nonentertainment broadcasting had been included. It was NTIA's belief that that category of programming must be specifically included in setting a guideline for meritorious service.[43] In addition, it expresses concern regarding the sampling methodology used by the staff in developing its programming data base.[44] It felt that some bias might be introduced because only one day was sampled for each station, though it provided no other basis for claiming such a bias. The methodology chosen by the staff was carefully set out in a Public Notice issued subsequent to the *Notice*.[45] The fact that only one day was selected at random from each composite log was dictated by limited staff resources but, because the sample utilizes accepted statistical techniques using only one day from each log should have no bearing on the statistical integrity of the results.

78. The major criticisms of the recommendation to eliminate nonentertainment guidelines fall into two caterories. First is the view that without these guidelines there will be no "objective" criteria at renewal time by which to determine what constitutes "meritorious" service.[46] A brief comment regarding the economic consequences of this process is in order. First, although setting a specific rule or guideline level provides a superficial aura of objectivity in fact, there is no way to know what the appropriate level should be.[47] More important, guidelines that pertain to all licensees create incentives for all licensees to act the same way, even if they are operating in very different market environments. Licensees become responsive first and foremost to the guideline, only secondarily to the public. Hence guidelines may not provide programming in the public interest.

79. An additional criticism of removal of the nonentertainment guideline is that less local or special programming (*e.g.*, religious programming) will result.[48] This criticism fails to take into account three factors. First, current guidelines do not require licensees to provide any particular kind of programming, either by general category type (*i.e.*, news, public affairs, religious, *etc.*) or source (save, of course, candidates for federal elective office). There is no reason to expect current programming patterns to change since broadcasters appear to already be producing nonentertainment programming in quantities that are well beyond the current minimums. Demand for information by listeners will continue with or without the guideline and for that reason the broadcaster would find it in his own self-interest to provide that programming even absent any requirement to do so. Where programming is currently provided with limited commercial support—*e.g.*, religious programming—it represents the broadcaster's recognition of the value of "good will" in the community and there is no reason to expect that motivation to lessen. Second, even without the guideline broadcasters would have to meet their Fairness Doctrine obligations. The Fairness Doctrine is key in that it goes directly to the public interest concerns of many commenters who are ill at ease with removal of the guidelines. Finally, some concern was expressed that in markets with 10 or more stations there are a substantial number of stations that fail to meet the processing guideline, or barely meet it.[49] This was based on a misunderstanding of the data presented in the *Notice*. The data do not include programming from the "other" category and, as a result, a superficial reading of Tables 10A and B might give the illusion that a number of stations do not meet the processing guideline. If the "other" category were included, very few stations would be below the guideline. Additionally, such large markets had a higher incidence of stations providing over 50% of their programming as news and public affairs ("All-News" stations) than did smaller markets. Therefore the overall availability of nonentertainment programming in these markets is great. In smaller markets, the average nonentertainment presentation by each station was greater but there appeared to be fewer "All-News" stations. To argue, based upon the evidence in the *Notice*, that the guideline is an effective constraint, is not correct.[50] The totality of the data must be examined when making such a judgment. Inspection of the NAB data set indicates that a small number of stations may still just meet (or in some instances fail to meet) the guideline.[51] This should not be interpreted as a need for a guideline as only 7 stations (6 of which are FM's) in the NAB sample of 100 stations for markets of 100,000 and above did not meet the guideline.[52] This represents a very small percentage of the total number of AM and FM stations in the sample.

80. In an effort to point out the weaknesses of a market type analysis with regard to the provision of local news programming, the United Church of Christ presented a study of news sources available to communities within the New York City urban area.[53] Their

[39] As with this FCC and NAB data, there were a few instances of stations (only FM) broadcasting less than 6 percent nonentertainment programming—2 in 1967–70, 2 in 1970–73, 3 in 1973–76 and 0 in 1976–79.

[40] The AM averages were 57% for 1967–70, 54.6% for 1970–73 and 56.3% for 1973–76 while the FM averages were 37.5% for 1970–73 and 49.2% for 1973–76.

[41] *Notice* at Tables 14A and 16A.

[42] Some support for the argument that public service broadcasts are demanded by listeners is also found in the data presented by the NAB *supra* note at Appendix A.

[43] NTIA comment, at 15.

[44] *Id.*

[45] FCC, *Public Notice* re: Release of Additional Materials in Radio Deregulation Proceeding (BC Docket No. 79–219) January 11, 1980.

[46] An "objective" standard was felt desirable primarily to avoid the Commission having to make judgments on particular programs thereby creating First Amendment difficulties. See, NTIA comment at 9–14.

[47] NTIA presents at least two alternative approaches to this problem. First is to treat both AM and FM as equals and assess the same percentage figure, perhaps 6 or 8%. There would be a reduced obligation for stations that use reduced advertising formats (e.g., "Beautiful Music" or Classical formats). The alternative is to choose a standard based upon the mean (average) level of the existing percentage of time devoted to nonentertainment broadcasting. Meritorious service would then be defined as a level of programming that exceeds one standard deviation above the mean level. See NTIA *supra* note at 14–22. The defect of these proposals is that they could present the prospect of a moving target as stations modify their behavior both in response to the method of computing the standard, itself; and in response to changes in the station's market. They would also place an enormous administrative burden upon the Commission.

[48] See for example Comments of the United Church of Christ, U.S. Catholic Conference, the Diocese of Cleveland and the Committee for Community Access.

[49] Comments of ACLU.

[50] See *Notice*, at Table 10A and 10B.

[51] Reply comments of NAB Attachment B.

[52] Also only 2 stations out of a sample of 74 stations for markets between 15,000 and 100,000 and no stations out of a sample of 143 stations in markets of less than 15,000 population did not meet the processing guidelines.

[53] Comments of UCC at 18–14. While the UCC appears to be troubled by the staff's choice of boundaries for the "New York City" market, they do not clearly explain their preferred alternative. For example, UCC indicates that the staff is in error when it suggested that eastern Suffolk County

approach was to examine an area dominated by a very large city and show that news oriented toward smaller communities in the shadow of that city would be underrepresented. For the New York City urban area they conclude that, in fact, little news of smaller nearby communities is carried by the New York City stations and, on that basis, argue that guidelines even stronger than those now in effect are needed. As our review of their study shows, it is not possible to conclude that more local news (presumably news directed at specific smaller communities) is either desired by residents or, for that matter, is not currently being provided by other stations, especially those on Long Island.

81. UCC begins by describing the diversity of both institutions and populations residing in the communities that fall within the area of dominance of the New York stations. It points out that six radio stations licensed in New Jersey and five stations licensed in Southeastern New York state exist within the New York market. In addition, at this stage of the UCC study, Nassau and Suffolk counties are combined into a market called "Long Island." The Long Island market contains 12 radio stations but no television stations because of the proximity of both New York City and the stations of Connecticut and Rhode Island. UCC's methodology consists of monitoring one New York City all news radio station, WCBS, for 16 hours on one day. It found that only one story originated from Southeastern New York state, and that was not of distinctly local interest.[54] On eht same day, there were five distinct stories (one of which was carried eight times) that related to New Jersey and seven minutes of news pertaining to Long Island (all but two of those stories dealt with crime).[55] In neither case were the news stories considered by the UCC to be of "distinct interest to any . . . community."[56] UCC asserts (based upon their knowledge of New York City) that the results of the WCBS monitoring experiment extend to the other New York all news station, WINS. From this UCC concludes that the local interests of citizens in the Long Island market would not be served if the Commission went to a market test even though the market would not be considered to have failed that test. It further argues that the many local newspapers that exist in the Long Island market are not suitable substitutes for radio news because they are not daily papers and, as a result, cannot provide timely coverage.

82. Perhaps the single most important critique of the UCC study is the inductive reasoning attempted by the authors. First, there is no guarantee that deregulation will cause all local newscasting (for the relevant parts of New Jersey and southeastern New York state—if not for Long Island) to fall on the shoulders of WCBS or WINS. Indeed, such a result appears to be unlikely given the widespread interest in news programs among listeners as demonstrated by the data. Second, and even more important, no monitoring of the 13 stations licensed to communities in Long Island—or for the relevant New Jersey or southeast New York state stations—was undertaken. Without that analysis there is no way to know whether these stations provided news not found on WCBS but oriented toward those communities. This is compounded by the fact that only one New York station was monitored—and that for only one day. Finally, even if the AM and FM spectrum were not both saturated and dominated by New York City, it is not clear whether each community in Nassau and Suffolk counties would have informational programming directed toward their specific needs. It may not be economically possible (leaving aside engineering considerations) to establish enough stations to serve each community. In this regard, we note that UCC did not attempt to empirically establish what, for it, was a crucial assumption, *i.e.*, that enough listeners want "timely" news coverage related specifically to their immediate communities to warrant additional provision. As a general proposition it is unreasonable to expect broadcasters to provide a service that may be less highly valued than their current programming. Perhaps weekly or twice-weekly papers are enough to satisfy the demand for local news. In this regard we note that the Long Island paper, Newsday, provides substantial local Long Island coverage on a daily basis.[57]

83. Another study submitted in this proceeding was conducted by William Seiberlich, a graduate student at the Annenberg School of Communications. The Seiberlich's study, conducted in three small communities, purports to demonstrate that radio is a primary source of news and information contrary to the assertions made in the *Notice*. Even though other news sources were available, 75% of the respondents in the survey stated that they considered radio to be the primary source for news about their community.

84. Without regard to methodological problems with the study (*i.e.*, some of the comments on station performance appear to have come from listeners responding to a newspaper advertisement placed by Mr. Seiberlich soliciting comments, yet there is no information in the study on the number of respondents or discussion as to whether obtaining responses in this fashion may have a built in bias) the study does not affect the course of action which we are taking herein. We continue to agree with the Roper study cited at paragraph 71 of the *Notice* that indicated that the majority of people rely on television as their primary source for news. We also noted, however, that the type of news that was most important to radio listeners was local news. Thus, in small communities with fewer alternative sources for such news, it would not be surprising to find, as apparently Mr. Seiberlich did, that residents of such communities turn to radio as a primary source of local news. That in no way, however, forms a basis for retaining the guideline. As the data compiled by the Commission and several commenters (as discussed elsewhere herein) demonstrate, news is presented at such times and in such amounts as to strongly suggest that it is being offered in response to listener wants and therefore would remain absent the guideline and without regard to whether radio is a primary or secondary news source.

85. Additionally, Mr. Seiberlich presented anecdotal information to the effect that radio service is poor in the surveyed communities even under current regulations. This information ranged from the fact that one of the subject stations had no manager, news director or receptionist, to claims by interviewees that there was a lack of sufficient religious and public affairs programming. As Mr. Seiberlich correctly points out, these claims do not necessarily represent violations of current Commission requirements. It is therefore difficult to consider these as reasons not to take the action being taken herein. Our focus must be upon whether or not market forces and the remaining requirements are an adequate substitute for the regulations under considerations. If the programming was not present in amounts pleasing to all listeners at a time when the guideline was in force, but without occasioning a violation of the rules, it is difficult to see how the situation would be adversely affected by the guideline's elimination. Indeed, one anecdote in the study provides strong support for the economic model in general (and the elimination of the commercial guideline in particular). Mr. Seiberlich reports that one station manager broadcasts less than the allowable number of commercial minutes but would sell more than 18 minutes of commercial time per hour "if only there were buyers." But there are not, and this is what has limited the broadcaster to fewer than 18 minutes per hour of commercials and should continue to so limit the broadcaster absent the guideline. Mr. Seiberlich's study simply does not persuade us that our theoretical basis was seriously flawed or the actions we are taking are contrary to the public interest.

Non-Entertainment Programming in the Absence of the Guideline

86. The analysis and material discussed above supports the elimination of the guideline for non-entertainment programming. The data released with the *Notice*, supplementary material [58] and that supplied with comments (as discussed above) clearly demonstrate that radio stations are offering a large amount of non-entertainment

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stations are part of the SRDS New York market (*Notice* at Appendix A). While UCC appears to be correct on this point it is irrelevant since the staff excluded Suffolk and Nassau Counties from the New York market. As an aside, UCC also argues that this Long Island market should have been included in table 3 of the *Notice*. The tone of the UCC study suggests, however, that since part of both Nassau and Suffolk Counties are dominated by New York City stations, these areas should be included in a New York City market. Even this is unclear, however, since at some places they speak of these counties as though they constitute a separate market, (comments of UCC at 19, 20-22) and are examined as such.

[54] The story was concerned with the murder of Dr. Herman Tarnower and was carried nationally.

[55] At this stage of its analysis, UCC seems to be treating "Long Island" as part of the New York City market. Otherwise, it is hard to understand their interest in WCBS' reporting of events there.

[56] UCC at 21-22.

[57] *Id.*, at Attachment 3.

[58] See Public Notice, Report No. 15448, released January 11, 1980.

programming, often well in excess of the guideline, and, with reference to at least news programs, tend to offer it at times of peak radio listenership. This plainly suggests a listenership preference for news that exists independently from the current guideline. No commenters have rebutted or explained the presence of large amounts of news at peak listenership times of the broadcast day as being anything other than a response to listenership interest. It would defy all sense of reason to believe that radio broadcasters schedule news programming in this way merely because of our guidelines. Clearly listeners demand news programming on radio. There also appears to be some interest in public affairs. [59]

87. Some analysis of the data in the comments suggests that non-entertainment programming would disappear without the guideline and buttress this claim by contending that the data demonstrate that a large proportion of stations are currently not meeting the non-entertainment programming guideline. [60] This claim, however, is based upon a faulty premise. As noted above, the Tables did not include any "other" non-entertainment programming. What the subject Tables purported to demonstrate, rather, was that most stations were offering almost, or in excess of, the guideline amounts for non-entertainment programming even when only their news and public affairs programs were counted. Experience dictates that most stations also offer some amount of so-called "other" non-entertainment programming. [61] Therefore, the amount of *all* qualifying non-entertainment programming being offered can reasonably be anticipated to exceed the amounts shown in the Tables which, again, refer only to news and public affairs. [62]

88. We do not believe that the tentative conclusions that we drew from the data in the *Notice* have been successfully rebutted, especially with regard to news programming. In short, that data shows that news is offered in high amounts at high listenership times, [63] and that most stations exceed current non-entertainment programming guidelines even when only two of the three "countable" types of non-entertainment programming are considered. Data submitted by commenters show that the total amount of such programming offered often far exceeds the guideline. From this we believe it safe to conclude that absent the guideline, news would continue to be offered, public affairs programming might (but not necessarily would) decline, and substantial amounts of all types of non-entertainment programming would be likely to remain. One might deplore the lower listenership interest in public affairs programming (as compared to news); one might urge that the Commission should require its presence regardless of the inclinations of the population at large. But the preliminary conclusions that we drew from the data still appear to be sound. Since many commenters nonetheless believe that substantial amounts of, or all, non-entertainment programming would flee from commercial radio under deregulation, we will address some of the reasons why we disagree with that conclusion even without regard to the data available to us that suggest the contrary.

89. Recent trends in news programming indicate the importance of news on radio stations independent of Commission requirements. An article in the August 25, 1980, *Broadcasting Magazine* notes that stations are now often tailoring their news reporting to what they see as being the informational interests of their audience. [64] While it is reported to be a trend that is not universally endorsed by radio journalists, the article asserts that it is a trend that "seems to have caught on with audiences." [65] Benefits to the public seem to be occuring as a result of this trend. As noted in the article,

> Last spring the station [WBCN–FM, Boston, Mass.] reported on a nuclear accident in Le Harvre, France, a full 12 hours before the wire services moved the story. And last fall it won a UPI award for its coverage of demonstrations at the Seabrook, N.H., nuclear power plant site.

Additionally, state wide radio news networks are said to be developing to the extent that the national Association of State Radio Networks has grown by 450% since its founding in 1973. Other, nationally oriented, networks also are said to be making great strides in bringing information to the public. Commission guidelines did not cause WBCN–FM to cover the nuclear disaster, did not create 18 statewide radio news networks, and did not require radio Station KGO–AM, San Francisco, California, to spend $40,000 to bring its listeners interviews from the Middle East and the opportunity to call in questions to newsworthy persons in Tel Aviv, Israel, and Cairo, Egypt. It can only be concluded that these stations and networks are providing these services in response to the preferences of the listening public, not in response to a Commission guideline that gives no more credit for a "rip and read" news broadcast than it does for a live report from Tel Aviv.

90. As to public affairs programming, the evidence was admittedly different. As discussed above, public affairs programming does not appear to be as highly valued as news by the listenership. For twenty years we have permitted such programming to be sponsored. Sponsorship would generally be expected to be attracted to programming with a significant listenership. If there was a large listenership for such programming, and the programming therefore attracted advertising, one would expect to see it presented at higher listenership times. [66] Our data indicate that while public affairs programs are offered during high and medium listenership day parts, the highest proportions are offered at poorer listenership time. This suggests that there may be a smaller interest on the part of the listening public in public affairs programming on radio than there is in news. It is legitimate to question whether it is in the public interest to require the use of the airwaves for the presentation of greater amounts of less desired programming. That is a philosophical question that may not be capable of definitive resolution but it is at least a question worth asking. As a general proposition, it may be offensive to the public interest to require any type of programming be offered in amounts that please the Commission rather than the public whose interest, after all, is intended to be the interest served under the public interest standard. Alternatively, we can construct hypothetical situations in which the actual amount of public affairs programming offered in a market under deregulation could exceed that offered in the market prior to deregulation. For instance, in a given market with a number of stations, there may exist a licensee with a middle-of-the-road (MOR) music format. The station may, however, be only the fourth most popular MOR station in the market and have but a three or four percent share of the listenership. If the licensee found that, for instance, under deregulation five percent of the listenership was not receiving the public affairs programming that it had previously enjoyed, the hypothetical MOR station might find it desirable to change its format to all news and public affairs. In such a circumstance, it might turn out that the amount of public affairs programming offered by one, primarily public affairs, station, exceeds the total that had been offered by all stations in the market, each offering between one and three percent public affairs programming, prior to deregulation.

91. While this is a hypothetical situation, it is a possible example of what could happen through the working of marketplace forces and is no more speculative than the prediction that all public affairs programming on commercial stations would be lost, as feared by many commenters. In fact, the data presented in the *Notice* in Tables 12A and 12B suggest that this scenario is quite plausible. As market size increased (and the expected market share of each station fell), an increasing percentage of stations offered

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[59] NAB indicated that between 1.75% and 3.4% of broadcasters' hours of operation were devoted to public affairs with NTIA showing an average of 3% for AM stations and 2.3% for FM stations.

[60] This conclusion is presumably drawn from the data in Tables 10–11, and 12.

[61] Indeed, in its comments (at fn. 24) NTIA reported on a study it conducted wherein it discovered that such "other" programming represented an additional 37% over the mean amount of news and public affairs presented.

[62] We draw attention to the NTIA, NAB and Cleveland Archdiocean studies setting forth these amounts. See paragraphs 71–77, *supra*.

[63] The fact that, as Douglas Fraser pointed out, news also is aired at other times of the day does not account for the unrebutted fact that news is offered in its largest amounts at what is well known to be the highest radio listenership times of the day—morning and evening drivetime—although not required to be so scheduled by Commission rule.

[64] See, "Carving Out a Niche in News," pp. 86–91.

[65] *Id.*, at 86.

[66] The fact that public affairs programming begins to increase after 6:00 a.m. Sunday mornings does not necessarily mean that licensees await people waking-up before presenting public affairs. It is quite possible that such scheduling is a result of our determination that, "the scheduling of all public affairs programming during the "graveyard" hours between midnight/and 6:00 a.m., when audiences are presumably smallest, would warrant further inquiry . . ." *RKO General, Inc.*, 52 F.C.C. 2d. 582 (1975). While public affairs is offered in higher amounts at such times, its random distribution over the remainder of the broadcast week tends to indicate some listener interest in these programs.

high levels of public affairs programming (*i.e.*, public affairs programming exceeded 6% of their total programming). This suggests that there exists a small audience for such programming that will become increasingly attractive to some broadcasters as their expected market shares fall and if other broadcasters cut back on this type of programming. In any case, given the action taken herein, news programming should continue for the reasons set forth above and other types of non-entertainment programming will necessarily continue to assure compliance with the Fairness Doctrine and the requirement set forth above to address community issues.

Loss of Programming Relevant to Low Income Individuals

92. Several commenters feared that in a deregulated environment, specialty programming to groups with low economic power (which were often equated in comments with minority groups) would be lost. There was little showing in the comments of the current amounts of such specialty programming, that programming tastes of low income individuals in general differed from those of the rest of the population, or of the amounts that would be lost. In the past, we have attempted to assure the presence of specialty programming through a number of means,[67] and we will presume that it exists.

93. While it is unwise and, we believe, inaccurate to assume that low income individuals have no interest in programming other than that directed specifically toward them, the loss of non-entertainment programming relevant to issues concerning such groups would, of course, concern us. We question, however, whether any such loss would be a realistic prospect under deregulation. First, we cannot assume that low income individuals have different programming wants than does the general population. With regard to discrete minorities, we are attempting to assure that the needs of minority groups are met through structural means such as EEO and minority ownership policies. This appears to us to be an excellent way to encourage such programming with the least amount of content intrusive regulation. In addition, there are already an increasing number of minority oriented programming services. As Table 4 appended to the *Notice* indicated, 416 radio stations in 239 radio markets provide some regularly scheduled Black-oriented programming with 139 of these stations presenting full time black-oriented programming. Table 6 indicated that 270 stations in 173 markets provide some regularly scheduled Spanish language programming with 44 such stations presenting full time Spanish language programming. More recent data indicate substantial increases in such programming.[68] Black formated radio stations showed an increase of 12% in the top 25 markets in 1979, alone.[69] The trend towards programming directed to ever narrower groups appears to be taking place at the present time. There is no reason to believe that this trend will not continue.

94. We believe that it has been amply demonstrated that all types of minority needs, be they racial, ethnic, or taste, can be, and indeed are being well met through increasing the number of stations. In an environment where often an audience share of 5% or less is considered a rating success, as it is today in many major markets, narrowly based tastes, needs and interests can be served. The Commission has implemented structural programs to increase the number of stations and to facilitate such programming especially with regard to minorities. Indeed, since the *Notice* in this proceeding was adopted, the number of radio stations on the air has increased from 8,654 to 8,921.[70] That is an increase of 267 stations in one year, without any of the structural measures discussed in the *Notice* having yet come into play.[71]

95. This increase in the number of stations has resulted in the creation of new entertainment formats. Although the deregulation proceeding relates primarily to issues concerning the non-entertainment programming offered by stations, this phenomenon of format fragmentation is nevertheless relevant. What it demonstrates is that the economic theory that holds that an increase in the number of stations promotes service to narrower and narrower segments of the community is correct. As it can be demonstrated to be true as to entertainment programming, there can be little doubt that the same effect would occur with regard to non-entertainment programming, much of which, it appears, is offered in response to the listernership's desires.[72]

96. A recent article in the trade publication *Broadcasting Magazine*, noted that although a station's overall image is increasing in importance, the case with formats is that:

> Fragmentation is the key to what's happening in today's radio formats. Top 40 is divided into standard, adult and album. Country competes with modern and easy country and rock is spreading its audience among soft and progressive practitioners.
>
> Even beautiful music, which for the past few years has divided itself only vaguely into classic, MOR and country modes, is showing signs of lining up in vocal-oriented and standard-instrumental camps. In religious, the difference is between listener-supported block programming and Christian music stations. In news/talk, it's light-talk versus news-oriented.[73]

97. The fine tuning of formats is directly related to the anticipated audiences that broadcasters are seeking to serve. They apparently perceive a different listenership for, by way of example, each of the following formats: urban contemporary, contemporary, adult contemporary, black contemporary, bright contemporary, contemporary gospel, contemporary rock, contemporary rhythm, top-40 contemporary and personality contemporary.[74] Clearly, the needs of smaller and smaller segments of the community are being appealed to by this fragmentation which is the natural result of an increase in the number of stations which permits service to such elements.

98. While several commenters argued that low income individuals and minority groups would be ignored as they are asserted to be non-consumers, (and therefore unattractive to advertisers), this argument appears to be belied by the facts. As an initial matter, even individuals having low purchasing power make purchasing decisions. They are not "non-consumers;" they are low-income individuals. There is considerable empirical evidence that low income individuals tend more than higher income individuals to buy brand name products (see, Appendix D, and paragraph 151 of the *Notice*). This may be due to a lack of discretionary funds necessitating the making of purchasing choices perceived as being "safe." Perhaps low income individuals with litte margin for error in their purchasing decisions therefore stick to name brand products rather than gambling on off-brand products. Whatever the reason, it does appear that there is a preference for name brand products on the part of low income individuals and, therefore, advertisers wishing to reinforce their image as name brands, or to establish themselves as name brands, may wish to sponsor programming appealing to low income individuals.

99. A recent article in *Broadcasting Magazine*, "The Black Market Becomes a Must Buy," by Eugene D. Jackson, Chairman-President of the National Black Network,[75] presents persuasive evidence that minorities in general are an attractive market to advertisers and are becoming increasingly so. If this is the case, the argument that minorities will not receive relevant programming must fail as the argument is based upon the premise that the programming will not be there because advertisers will not support such programming. Mr. Jackson points out that in 1980, the aggregate income of black workers is projected to be $125.8 billion, increasing to $225 billion by 1985. If Black Americans constituted a separate nation, Jackson continues, their $125.8 billion economy would rank it sixth in the free

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[67] See the fourteen elements of programming necessary to meet the public interest in the *En Banc Programming Inquiry Statement*, 44 FCC 2303 (1960); additionally, our ascertainment requirements were intended to result in programming relevant to the needs of all significant segments of the community.

[68] See the attachment to this Appendix.

[69] *See, Broadcasting Magazine*, June 9, 1980, "Radio's Format Leader: Adult Contemporary," pp. 44–46.

[70] *See*, Commission News Release, "Broadcast Station Totals For October 1980," Mimeo No. 01558, dated November 13, 1980.

[71] While the Clear Channel proceeding, Docket 20642, has resulted in a *Report and Order* (FCC 80–317, released June 20, 1980) that would eventually result in new stations commencing operation, petitions for reconsideration have been filed. In any case, it is too soon for any news stations to have resulted from the measures taken in that proceeding.

[72] See paragraphs 151 through 217 of the *Notice*.

[73] See, *Broadcasting Magazine*, "Overview: Images Sharpen as Formats Blur," August 25, 1980, p. 52.

[74] These formats represent only formats utilizing the word "contemporary" in their description and present in the top-10 stations in the top-50 radio markets. Of course, numerous other formats also exist. See *Broadcasting Magazine*, "The Fortunate 501," August 25, 1980, pp. 62–74.

[75] *Broadcasting Magazine*, October 6, 1980, p. 22.

world, ahead of both Canada and Australia. The article points out certain demographic distinctions between minority and majority communities that demonstrate both an increasing demand for service of all types in the Black community and specific features that advertisers may want to focus on, which would lead to support of programming directed toward minority group members. As Mr. Jackson states, "Unless all of society metamorphosis, there will be a discernable need for a special kind of community, a special kind of marketing in the black marketplace." The data and argument set forth in the article are supportive of the conclusion that minorities can be, and indeed are, an attractive audience for advertisers to reach.[76] Accordingly, it reasonably can be anticipated that advertiser support would be available for programming directed toward the black community without regard to the Commission's non-entertainment programming guideline and ascertainment regulations.

100. A review of programming services currently available on radio demonstrates that many groups, including both those with lower than average incomes and those small in number, receive radio service. It should be noted that the services indicated in the Attachment to this Appendix are not the result of any current Commission programming requirement. Our structural regulations aimed at encouraging Black, Hispanic and Asian-American ownership of and employment by broadcasting stations may have played a rule in achieving this result. In addition to programming relating to these groups presented on stations not specifically appealing to these groups, there exist numerous stations formated entirely, or in significant part, to meeting the needs of such groups.[77] The existence of these formats and programming segments is not the result of any Commission requirement. The stations and their formats exist because their licensees have come to the conclusion that, even where the group appealed to traditionally has had a low income or is low in number, marketplace forces make the provision of radio service to these segments of the community a rational economic decision.

The Role of Public Broadcasting

101. As noted above, some commenters have argued that deregulation of commercial broadcast radio stations would place an intolerable burden upon noncommercial stations that, it is claimed, would be expected to take up any loss of non-entertainment programming resulting from deregulation. This is also said to be inconsistent with the legislative intent for public radio, which was to be considered as competitive with commercial radio and not as a repository for all non-entertainment programming. Much of this concern appears to have sprung from our discussion in the *Notice* in paragraphs 156–159. There we noted that the government subsidizes noncommercial radio programming by reserving valuable frequencies and by providing financial aid. We also noted that National Public Radio (NPR) affiliated stations provide, "a heavy diet of regularly scheduled news and public affairs programming." While we intended to indicate that the levels of such programming are a factor that must be considered in any discussion of the availability of non-entertainment programming in the marketplace, we did not intend to indicate that it was our belief that, under deregulation, non-commercial radio would be expected to be responsible for all non-entertainment programming. However, some further discussion of the role of non-commercial radio is important.

102. The role of noncommercial radio has not been viewed as a way to relieve commercial broadcasters of their obligations under the public interest standard as construed by the Commission. Nor has it traditionally been viewed as being in economic competition with commercial broadcasting.[78] However, it has been viewed as being for the purpose of, "filling the gaps that commercial broadcasters do not fill."[79] To this end, National Public Radio, which was established in 1970 to distribute programs to public radio stations, had in 1978, a budget of $8,100,000 and produced approximately 40 hours of programming per week, primarily of the news and public affairs variety.[80] Since the commencement of Federal financial contributions, the growth of public radio has been described as being remarkable while achieving "impressive program quality. . . ."[81] NPR stations are currently present in 66 of the top 100 Standard Metropolitan Statistical Areas (SMSA's) and are estimated by the Corporation for Public Broadcasting (CPB) and NPR to be available to 50% of the population of the United States.

103. That noncommercial public radio was intended to fill gaps in programming offered by commercial stations appears beyond doubt.[82] Where this not the intent, no reason would have existed for the extension of Federal funding for some noncommercial radio operations. The Carnegie II report amplified upon this role for noncommercial radio asserting that purported shortcomings of commercial radio, indeed, constituted the strongest argument for increased support of public radio. While we disagree with some of the Report's conclusions regarding commercial radio, we would agree that there are some cultural tastes and programming preferences so outside of the mainstream that commercial stations cannot reasonably be expected to respond to them. That is why the government has reserved channels for noncommercial use and has provided financial assistance. The presence of such an institution in many radio markets cannot be ignored. To the contrary, its presence and purpose must be considered in any evaluation of the programming that is, and would be, present in the marketplace. While we would not expect that noncommercial radio would be called upon to provide all news and public affairs programming, in a deregulated environment,[83] we continue to believe that the "gap filling" programming that it does provide, and function which it serves, are relevant factors in our deliberation. In any case, our resolution of the non-entertainment guideline issues largely renders the concern expressed in this area moot.

Market Failure

104. In the *Notice*, we set forth as one option intervention by the Commission only with regard to non-entertainment programming if a market failure had occurred in a particular market or community. This was based on our analysis that in almost all situations market forces would assure the provision of radio services in the public interest. Because markets, like all other allocation systems, are imperfect the Commission did not want to exclude the possibility of intervention in the unusual circumstance that the market failed to respond to listener wants. Several commenters addressed this subject. Most of those doing so, approached it from the standpoint of whether the market could ever satisfy consumer preferences in radio.[84] Few commenters addressed the question of whether the Commission could regulate on a market-wide basis by assessing the sufficiency of programming available by the total amount of programming of a particular type that is offered on a market-wide basis. Still fewer suggested how we might determine whether a market has failed to respond to consumers and what we should do about it if we determine that it had.

105. The concept of the use of market failure to trigger Commission intervention is a relatively new one. In its Opinion in *WNCN Listeners Guild* v. *F.C.C.*, 610 F.2d 838 (D.C. Cir. 1979, *cert. granted*, U.S. (1980), the Court of Appeals, while contending that the radio market is an imperfect reflection of listener preferences, also acknowledged that the Commission may permit these admittedly imperfect market forces to operate until it obtained strong evidence of market failure. The court stated:

Further, as is clear from our earlier cases, the Commission's obligation to consider format issues arises *only when there is strong*

[76] Also see, paragraphs 35–36 of Appendix D, *supra*.

[77] See the attachment to this Appendix for a listing of several formats and specialty programming aired at several groups some of which have a high proportion of low income individuals or which are small groups numerically.

[78] H.R. Rep. No. 572, 90th Cong., 1st Sess. 16, 17 (1967).

[79] *Id.*

[80] See, The Carnegie Corporation of New York, *A Public Trust: The Report of the Carnegie Commission on the Future of Public Broadcasting* (hereinafter "Carnegie II"), page 190 (1979).

[81] *Id.*, p. 193.

[82] For instance, the Carnegie Commission notes, in Ramah, New Mexico an NPR station translates the Albuquerque Journal newspaper and weather information into the Navajo language.

[83] The basic premise of deregulation is that marketplace forces would continue to assure the presence of large amounts of nonentertainment programming in each market, although not necessarily, with the same amount on each station in the market.

[84] The argument generally stated was that the market would invariably fail because the market does not respond to the preferences of groups that are small in number or in purchasing power and because the non-material benefits to society of certain types of programming are not reflected in market demand.

prima facie evidence that the market has in fact broken down. (Emphasis supplied.) [85] There is no reason to believe, whatever the outcome of the case on appeal, that the Supreme Court would view the Commission as having more stringent obligations (i.e., to intervene although the market is functioning well), at least in the format area, than did the Court of Appeals.

106. We believe that this same principle may be applicable to issues other than entertainment formats. While, as asserted by a number of commenters, the marketplace may be a less than perfect reflection of listener preferences, this does not imply that a regulatory alternative would better reflect listener preferences. We cannot think of any area, be it automotive, newspapers and periodicals, motion pictures, food, clothing, etc., where there is an absolutely perfect reflection of consumer preferences in the market. Yet, this reality does not trigger the call for pervasive regulation. Nor is there any indication in the Congressional history of the Radio Act or the Communications Act, in court interpretation of either the Act or of Commission decisions, or in Commission decisions themselves, that radio has ever been viewed as that one area in which there would be a perfect correlation between consumer preferences and services offered. Rather, the history of radio regulation has been that it should be regulated to achieve the "public interest." That phrase has variously been defined as requiring, "the greatest good to the greatest number," [86] the "fullest and most effective use," of the airwaves, [87] or "the best practicable service to the public." [88] None of these equate the public interest with a perfect correlation between service and listener preference. Rather they all recognize that the Commission's obligation is to assure the best practicable service, not perfect service, to the listeners. Our obligation to intervene is triggered only when there is strong *prima facie* evidence that the imperfection is so great as to constitute a breakdown of the market. In that case, the flawed market result should be compared to the regulatory alternative, which is itself inherently imperfect, to determine which alternative better serves the public interest.

107. In the instance presented herein, we believe that there are three problems that render it difficult to rely on "market failure" as the trigger for intervention into non-entertainment programming. While market failure in broadcast services may be difficult to identify, this does not mean that we cannot study alleged cases and fashion remedies or that similar difficulties also exist in non-broadcast type services. The first problem is administrative rather than substantive: because each market is unique, so is the failure of any one market unique. It would therefore require action on an *ad hoc* basis to properly determine when market failure had occurred. A market-wide six percent guideline on non-entertainment programming, for example, would simply represent the reimposition of a guideline—albeit now at a market level rather than at a station level. This would in no way address the issue of how well each particular market is meeting audience wants and needs.

108. More important, markets cannot be viewed at a single point in time and be judged to have failed. Rather, they must be viewed *over time* to see whether or how they have reacted to changes in supply and demand, *i.e.*, to see how producers respond to available information on what consumers want. For example, at a point in time a radio market might not be providing a particular type of programming that is of importance to a significant segment of the community, just as at a point in time there might be no American automobile maker providing high gas mileage automobiles. The test of the market is not instantaneous; the test is whether in a reasonable period of time there is some purveyor of services or goods to provide that programming or that automobile (assuming the demand for these is demonstrated). The problem with relying on such a test to determine when intervention should be triggered is that the appropriate period of time is not readily known and the information on consumer demands is difficult to collect. To require an instantaneous market response is to disregard how markets work and to totally abandon the marketplace approach; to wait too long is to deny the reality that markets can fail occasionally, and that the public interest is harmed on those occasions. As a result, the administrative difficulties associated with strict reliance on a market place analysis may be insuperable. There is an additional unanswered question regarding administration of such a market approach. That is, if the Commission determined market failure had occurred, what remedy could it fashion that would be equitable. For instance, if a station in the market was rendering superior service, how would it fit into any remedy that we might construct to rectify market failure? Such questions are troubling, and, while they may not be insolvable, we have grappled with them, but have not resolved them. Accordingly, we would not be comfortable relating the concept of market failure to the non-entertainment programming area at the present time.

109. Additionally, a number of commenters pointed out that the Act requires the Commission to make public interest findings with regard to individual stations—not markets. We believe that this argument has merit in this context. Section 307 of the Act, for instance, speaks in terms of the Commission granting "to any applicant" a station license if it would serve the public interest. [89] Section 312 of the Act speaks in terms associated with actions of individual licensees in the context of reasons for license revocation. Licensees traditionally have had individual responsibilities to operate their stations in the public interest and while we believe that stations can make programming determinations as to type, content and, to an extent, amount based upon what other services are available, each licensee has a bedrock obligation, historically rooted, to cover public issues. This obligation is not relieved by the presence of the large number of stations now available and, therefore, we will not attempt to apply the concept of market failure as set forth in the *Notice* to this subject area.

110. Finally, to have to review the performance of each market and to evaluate the levels of individual types of programs being provided and to assess the desires of the members of that market would present serious administrative burdens to the Commission. It would require the Commission to engage in extensive generation of data, would require the storage of that data, and would require complex analysis of the data. This would have had to be accomplished on a continuing basis for all markets had we opted to adopt a complete market approach. We believe that it is well within our discretion to decline to adopt a solution that would require this type of extensive scrutiny which could cripple the functioning of the Commission and its ability to carry out its regulatory responsibilities in other areas through the diversion of resources that would be required.

111. These arguments have convinced us that a strict market approach to nonentertainment programming is unworkable at the present time. Such an approach would be both administratively inconvenient and could be construed as contrary to the Act which mandates the licensing of individual stations. While we are not adopting such an approach, we will, as noted above, take into account market forces by permitting each licensee to assess the other stations in the market and the nature of their audiences and their programming in making its own determination as to what issues it will address in its own programming. However, each station will retain the obligation to present some programming relevant to issues facing the community, or, in the appropriate instance as described above, to its listenership.

The "Cross-Fertilization" Factor

112. A number of commenters argued that permitting stations to specialize in their programming would be undesirable and that it is necessary to require each station to present programming relevant to all significant segments of the community so that there can be communication between diverse groups. This was referred to by some as being a "cross fertilization" function. There are two facets to this argument warranting attention. The first is whether such a function is currently performed under existing regulations. The second is that, if so, whether or not this function would continue given the action taken herein.

113. We have significant doubts that our current regulations achieve the claimed cross fertilization. Broadcaster discretion would now permit a licensee to address issues of more general relevance in lieu of narrowly focused issues. Additionally, there is the problem that even if addressed, those segments of the population to which the

[85] *WNCN Listeners Guild* v. *F.C.C., supra.*

[86] Donovan, *The Origin and Development of Radio Law*, lecture given at the School of Law, New York University, April 8, 1930, p. 11.

[87] *National Broadcasting Company* v. *United States*, 319 U.S. 190 (1943).

[88] *1965 Policy Statement, supra*, p. 394; cited in *F.C.C.* v. *National Citizens Committee for Broadcasting, supra*, p. 782.

[89] Also see Section 309 of the Act.

programming was not relevant would be likley to tune it out. If either of these were the case, the cross-fertilization would not occur. Thus, current regulations do not necessarily serve this asserted function with regard to truly group-specific programming.

114. There is little reason to believe, however, that under deregulation all programming reflecting issues of particular concern to, for instance, minority groups, would disappear from stations directing programming to, for instance, majority audiences. For instance, Black teenage unemployment may be thought of as being of principal interest to those affected—Black teenagers. However, the levels of such unemployment in a community could be so significant as to make it an issue of concern to all in the community. Because we are requiring programming addressing issues of concern to the community, programming addressing the problem of unemployment and Black teenage unemployment would likely be present on at least some stations with other than a Black teenage audience. Cross-fertilization can also occur when individuals that are not members of the "target audience" of a station, nevertheless, listen to the station and become aware of issues primarily relevant to the target audience. We do not assume that individuals only listen to one station. Indeed, the economic model and casual empiricism indicate that individuals will do what is necessary to satisfy their wants and, therefore, switching among channels to obtain desired programming can reasonably be anticipated. By listening to a variety of stations, individuals will naturally be exposed to programs that they are not the target audience for and, thus, cross-fertilization will result. Finally, we do not assume that individuals are uni-dimensional in their use of media. The subject cross-fertilization can also occur when individuals are exposed to varying issues and viewpoints through their use of a variety of media.

Attachment.—Radio Stations Having Certain Formats or Specialty Programming *

I. Formats (stations presenting more than 20 hours per week of the indicated type of programming.
- American Indian—5 stations
- Black **—239 stations
- French—3 stations
- Italian—1 station
- Japanese—5 stations
- Polish—1 station
- Portuguese—3 stations
- Spanish (including Puerto Rico)–124

II. Special Radio Programming (special programming of 1–20 hours per week).
- American Indian—53 stations
- Black **—563 stations
- French—86 stations
- German—116 stations
- Greek—49 stations
- Italian—117 stations
- Japanese—15 stations
- Polish—181 stations
- Portuguese—37 stations
- Spanish (including Puerto Rico)–480 stations
- Ukranian—13 stations

*Data from *Broadcasting/Cable Yearbook 1980*, pp. D–74 to D–107. Each station is counted separately although there may be some AM-FM combinations where the specialty programming is duplicated or simulcast.

**Includes station formats characterized as rhythm and blues, and soul. It does not include jazz or gospel formated stations.

Appendix F.—Ascertainment

A Brief History of Ascertainment

1. To place the Commission's determination regarding ascertainment into perspective, a brief review of ascertainment's history is relevant. Even before the 1960 *Programming Statement*, the Commission had alluded to the broadcaster's obligation to make a special effort to understand the needs of its community.[1] The *Programming Statement*, however, represented the first formal policy statement on the issue expressly requiring a "diligent, positive, and continuing effort by the licensee to discover and fulfill the tastes, needs, and desires of his community or service area. . . ." [2] Subsequent to its issuance, the Commission proposed that broadcast applicants should explain their efforts to identify community needs and to plan responsive programming.[3]

2. In addition to proposing to amend broadcast application forms, the Commission began implementing its ascertainment policies on a case-by-case basis. In 1961, the Commission denied an application for a new FM station in Elizabeth, New Jersey, on the ground that the applicant had not adequately ascertained community problems and needs. The Commission stated:

> It is not sufficient that the applicant will bring a first transmission service to the community—it must in fact provide a first local outlet for community self-expression. Communities may differ, and so may their needs; and the applicant has the responsibility of ascertaining his community's needs and of programming to meet those needs [footnote omitted]. The instant programming proposals were drawn up on the basis of the principal's apparent belief—unsubstantiated by inquiry, insofar as the record shows—that Elizabeth's needs duplicated those of Alameda, California, and Berwyn, Illinois, [footnote omitted] or, in the words of the examiner "could be served by FM broadcasters generally." . . . [T]he evidence admits of no other conclusion than that the applicant's program proposals were not "designed" to serve the needs of Elizabeth . . . [T]he applicant has made no showing as to Elizabeth's programming needs, and a determination of whether Suburban's program proposals "would be expected" to meet such needs is rendered impossible. In essence, we are asked to grant an application prepared by individuals totally without knowledge of the area they seek to serve. We feel that the public deserves something more in the way of preparation for the responsibilities sought by [the] applicant than was demonstrated on this record.[4]

3. The applicant raised statutory and constitutional objections to the decision on appeal. However, the United States Circuit Court of Appeals for the District of Columbia rejected the objections, holding that the Supreme Court's decision in *National Broadcasting Co.* v. *United States*, 319 U.S. 190 (1943), permitted the Commission to impose reasonable restrictions upon the grant of licenses to assure programming designed to meet the needs of the local community.[5]

4. When the new application forms were adopted in 1965 and 1968, the Commission imposed a four-step ascertainment process.[6] These changes were soon reflected in the Commission's actions. Issues were added in hearings [7] and petitions to deny applications raised questions about compliance with the ascertainment requirements.[8] The Commission, perceiving a problem, issued a Public Notice [9] to publicize its requirements and to lessen a "costly workload burden on the Commission."[10] The Commission later made another change, ruling that although the applicant's subjective evaluation of the ascertained problems and needs must be made, it need not be submitted as part of the application.[11]

5. Considerable problems remained, however, over the precise nature of the Commission's requirements. In *City of Camden*,[12] the Commission denied an application for assignment of license on the ground that the proposed assignee's ascertainment of community leaders failed to reflect a cross-section of the community when compared against known demographic information.[13] The Commission subsequently initiated a *Notice of Inquiry* in which it proposed a detailed ascertainment primer as a means of eliminating the apparent confusion surrounding the ascertainment process.[14] A primer containing 36 questions and answers was adopted after consideration of the many comments filed in that proceeding.[15] The Commission set out procedures for determining the composition of the area to be served, consulting with community leaders and members of the

[1] *See, e.g., Wayne M. Nelson*, 44 FCC 1132, (1957); *Mid-Island Radio, Inc.*, 15 FCC 617, 640 (1951); *Pilgrim Broadcasting Co.*, 14 FCC 1308, 1348 (1950); *Alexandria Broadcasting Co.*, 13 FCC 601, 614 (1949); and *P. B. Huff*, 11 FCC 1211, 1218 (1947).

[2] *Programming Statement, supra* at 2316.

[3] *See, AM and FM Program Form*, 1 FCC 2d 439 (1965); and *Television Program Form*, 5 FCC 2d 175 (1966).

[4] *Suburban Broadcasters*, 30 FCC 1021, 1022–1023 (1961).

[5] *Henry* v. *FCC*, 302 F. 2d 191, 193–194 (D.C. Cir. 1962), *cert. denied*, 371 U.S. 821 (1962).

[6] Applicants were expected to provide full information on the following matters: (1) the steps taken to become informed of problems and needs of the area to be served; (2) the suggestions received as to how the station would help meet those problems and needs; (3) the applicant's evaluation of the suggestions; and, (4) the programming proposed to meet evaluated problems and needs. *Television Program Form, supra*, 5 FCC 2d at 178.

[7] *See, e.g., Minshall Broadcasting Co.*, 11 FCC 2d 796 (1968).

[8] *See, e.g., Andy Valley Broadcasting System*, 12 FCC 2d 3, 6 (1968).

[9] 13 RR 2d 1903 (1968).

[10] *Id.*

[11] *Sioux Empire Broadcasting Co.*, 16 FCC 2d 995 (1969).

[12] 18 FCC 2d 412 (1969).

[13] *Id.* at 422.

[14] 20 FCC 2d 880 (1969).

[15] *Ascertainment of Community Problems*, 27 FCC 2d 650 (1971).

general public, enumerating and evaluating community problems and needs, and relating proposed programming to the evaluated problems and needs.[16] Failure to conduct the ascertainment in accordance with the requirements of the *Primer* would subject the applicant to a possible denial of application.[17]

6. The *Primer* was, at the outset, the standard for all applicants. On the same day that the *Primer* was issued, however, another proceeding was initiated to determine whether different standards should apply to renewal applicants. Ultimately, a *Renewal Primer* incorporating the four basic requirements of the original *Primer* was adopted.[18] Procedurally, though, the *Renewal Primer* made some changes.[19] In addition, the *Renewal Primer* experimentally created a partial "small-market" exemption for stations licensed to certain cities of 10,000 persons or fewer on the assumption that licensees of small communities know the problems and needs of their communities without undertaking a formal ascertainment.[20] Of course, the exemption does not relieve small-market licensees from the duty to respond to the problems and needs of their communities.

7. In general, although they have often provided very specific guidance for and oversight of broadcasters, the ascertainment *Primers* carried over three basic principles of broadcast regulation. First, the *Primers* made it clear that the broadcaster has broad discretion.[21] Second—and of major importance for our present purposes—the *Primers* acknowledged that a broadcaster could take into account its particular audience and the programming of other stations in making programming decisions. The Commission did state, however, that a problem should not be ignored merely because few in the broadcaster's audience shared that problem.[22] But, by the same token, the Commission also said the make-up of the audience and market were factors that could legitimately influence the broadcaster's programming judgment.[23] Third, the Commission has retained the authority and power to inquire about the basis for a licensee's programming choices; if the licensee's conduct is unreasonable or in bad faith, the Commission has made it clear that further actions—including denial of a license application—could result.[24]

8. Since the issuance of the *Notice of Inquiry and Notice of Proposed Rule Making*, herein, the Commission has rendered three noteworthy decisions with regard to its ascertainment requirements. In a *Report and Order*, FCC 80-134 (April 4, 1980), the Commission declined to add specifically either the gay community or the handicapped to the checklist of specific institutions and elements within a community which renewal and noncommercial educational television applicants are required to ascertain.[25] Moreover, it deferred action on the experimental small-market exemption, noted above, pending the resolution of the larger ascertainment issues being considered in this proceeding.[26] Additionally, we recently gave permission to broadcast stations to utilize Public Service Announcements in responding to problems discovered through ascertainment.[27]

The Comments

Introduction

9. Considerable comment was received with regard to the ascertainment proposals contained in the *Notice*. Comments ranged all the way from support for the outright elimination of ascertainment to requests that it be retained in its present form. There was some concensus in the comments, and greatly in evidence during the panel discussions, that ascertainment may have grown into too complex a procedure where form has been elevated over substance. Accordingly, many commenters and panelists, representing widely disparate points of view, agreed that some modification may be warranted, and even desirable, although the boundaries of such a change were disputed. In the words of one of the panelists, ascertainment has become "a ritual dance,"[28] and should at least be simplified.

Arguments in Favor of Elimination of Ascertainment

10. There was some disagreement among those supporting deregulation of ascertainment not only over what the result of elimination would be, but what it should be. While some commenters believe that community-wide ascertainment would continue as a result of marketplace forces, others believe that the elimination of ascertainment would permit stations to concentrate on the needs of their own audience and as a result to better serve it. In this way a wide variety of audiences in the community would be served through diverse, albeit specialized, radio stations. One view is premised on the idea that radio stations should present "well balanced" non-entertainment programming so that many significant segments of the community would have programming relative to their needs and problems on each station. The other concept is that stations should no longer need be required to present "well-balanced" (something for everyone) programming, given the number and diversity of stations. This situation, it is argued, would in many markets result in all significant segments of the community being served, but not necessarily by each station attempting to serve multiple segments. Rather, service would result from a number of comparatively specialized stations each serving their own audiences, but with all significant segments receiving service somewhere in the market.

Market Forces as a Substitute for Ascertainment Requirement

11. Much of the support for elimination of ascertainment comes from broadcasters. The National Association of Broadcasters and the American Broadcasting Companies both strongly support the total elimination of ascertainment requirements arguing that marketplace forces can be relied upon to substitute for Commission regulation. CBS, while agreeing that ascertainment requirements should be eliminated, asserts that the goal of the ascertainment process—licensee knowledge of its community and responsiveness to it—should remain an element of service in the public interest.

12. Other commenters also contend that marketplace forces would provide an adequate substitute for ascertainment requirements. NTIA, for instance, shares CBS's view that ascertainment could be left to marketplace forces. NTIA believes that to establish informal requirements would be but the first step to a return of litigation and new rulings that would eventually formalize ascertainment along its current lines. Therefore, it suggests that the Commission merely announce that broadcasters must reasonably endeavor to serve the needs and interests of their communities and to indicate that ascertainment is an excellent vehicle to achieve that goal. Under its proposal, NTIA would have the Commission limit its review to the product—service to the community—not the process. If this approach failed, NTIA states, the Commission could still consider other procedures.

The Cost Factor

13. A number of broadcasters based their objection to ascertainment requirements not upon a lack of necessity for them, but, rather, upon their costs as related to their benefits. The estimated costs for ascertainment ranged from $167 per year to $20,000 per year.[29] The

[16] *See* generally, *Ascertainment of Community Problems, supra*, 27 FCC 2d at 671-674.

[17] *See, e.g., Bamford* v. *FCC*, 535 F.2d 78 (D.C. Cir. 1976).

[18] *Ascertainment of Community Problems by Renewal Applicants*, 57 FCC 2d 418 (1975), *recon. granted in part*, 61 FCC 2d 1 (1976).

[19] For example, the *Renewal Primer*: (1) calls for an on-going ascertainment process, rather than conducting it solely in the six months preceding the filing of the renewal application; (2) provides for a community leader checklist; (3) specifies the number of consultations to be made, based on the size of the community of license; (4) requires renewal applicants to maintain information on the composition of their communities in the public inspection file; (5) requires that licensees annually deposit in their public inspection files a list of no more than ten problems and needs existing in their service areas during the preceding year, and a list of programs treating those problems and needs; and, (6) requires documentation of the ascertainment procedures to be placed in the station's public inspection file.

[20] *Ascertainment of Community Problems by Renewal Applicants, supra*, 57 FCC 2d at 437; *but compare, Ascertainment of Community Problems by Noncommercial Applicants*, 58 FCC 2d 526 (1976).

[21] *See, e.g., The Primer, supra*, 27 FCC 2d at 686; and, *Renewal Primer, supra*, 57 FCC 2d at 445.

[22] 27 FCC 2d at 673.

[23] *Id.; see also, Renewal Primer, supra*, 57 FCC 2d at 445.

[24] *See, The Primer, supra*, 27 FCC 2d at 686; and *Renewal Primer, supra*, 57 FCC 2d at 433.

[25] However, it did rule that any group that came forward to a broadcaster and indicated it was a significant group in the community should be considered. The broadcaster had the discretion to make the determination of whether the groups were indeed significant, but groups could challenge that decision.

[26] *Order*, FCC 80-277 (May 9, 1980).

[27] *Order*, FCC 80-557 released October 27, 1980.

[28] *See*, Transcript, September 15, 1980 Panel Discussions In the Matter of Radio Deregulation, p. 19, testimony of Erwin Krasnow.

[29] The low figure was for a 5 kW daytime only AM-FM combination in a town of 4,000. The high

Ohio Association of Broadcasters estimates that a licensee devotes a minimum of 200 person hours per year to leader interviews alone. Nationwide Communications estimated that WGAR in Cleveland, Ohio, devotes 2 hours per month from each department head for thirty months for community leader interviews at a salary cost of $5,000. Billboard Broadcasting Corporation and Radio Stations WLAC–AM and WKQB–FM maintain that the minimum annual cost for leader interviews in the Nashville, Tennessee, market is $8,272, and provide a detailed breakdown of the costs involved. Plough Broadcasting Company, Inc., indicates that its annual ascertainment costs in five markets was in excess of $8,000. The median number of person hours per year for ascertainment reported was 100, with an average number of person hours devoted to ascertainment being 160.

14. Other commenters also addressed the issue of the costs of ascertainment. The Council on Wage and Price Stability noted that ascertainment was not an end in and of itself, but that its purpose was to make stations more responsive to community needs without interfering directly in specific programming decisions. It states that:

(i)t is not clear, however that the ascertainment procedures are effective in eliciting programming addressed to these special community needs. Since we know of no convincing evidence indicating that these procedures are effective, and since on the other hand they do impose large costs, we support the Commission's proposal to eliminate them.

Value of Ascertainment Irrespective of Cost

15. Several commenters question the value of ascertainment without regard to whether or not it involves any costs. Walton Francis, for instance, submitted a study prepared for the Department of Health, Education and Welfare, evaluating their "needs assessment" requirements contained in various funding programs. This is said to be analogous to the Commission's community needs ascertainment requirement. The study, *Needs Assessment: A Critical Perspective*, concludes that needs ascertainment is not, and in fact cannot be a valid objective approach to determining consumer preference. One major problem, the report states, is the concept of the word "need" which is said to be "basically an empty term, one without conceptual boundaries." This being the case, it:

. . . becomes loaded with cultural, normative, philosophical and political overtones. Because it is both emotion-laden and value-loaded, "need" is subject to many shades of meaning, intent and interpretation. The emotive and mercurial attributes of the word "need" follow the term into activities called "needs assessment."

Therefore, whatever method is utilized to conduct needs assessments (the type of assessment utilized in the Commission's ascertainment requirement is equivalent to what is referred to in the study as the "key informant" type, and is only one of a number of types of possible needs assessment methods) the process cannot be counted on to provide the questioner with a valid picture of "needs." Commenter Francis therefore concludes that the choice between utilizing marketplace forces and ascertainment to obtain programming responsive to community needs is a choice not between two imperfect mechanisms, but instead between an imperfect and an invalid (or non-existent) mechanism.

16. One community leader who has been subjected to ascertainment interviews also argued in favor of elimination of ascertainment from first hand experience. Congressman Ronald Mottl stated:

I endorse the Commission's proposal for elimination of ascertainment obligations for commercial radio broadcasters. Having been called upon a number of times as a public official to participate in the ascertainment process, I have concluded that it is a meaningless formality. Broadcasters I have spoken with regard it as perhaps the greatest "nuisance" regulation of the Commission. Certainly ascertainment helps breed disrespect for Commission regulations generally to the detriment of genuinely worthwhile broadcast regulation activities of the Commission.

17. Others also argue that ascertainment is actually counter-productive. Joint comments filed on behalf of Southern Broadcasting and a number of other licensees contend that the current procedures are resented by community leaders, many of whom are contacted by a number of licensees. Thus, instead of promoting dialogue between broadcasters and community leaders, the requirement is said to impair such dialogue. While noting that its stations employed procedures to ascertain community needs and interests long before the Commission's adoption of specific requirements, Bonneville International, too, asserts that the current system is counter-productive. It claims that it is bound by the *Primers* to conduct ascertainment by fixed methods that do not afford flexibility to respond quickly to significant changes in the community. The Tribune Company echoes this view adding that different service areas require different approaches. Similarly, it is contended, stations that gear their service to minority groups should be able to focus their ascertainment on those groups rather than expend needless energies elsewhere.

18. Many individual licensees argued that ascertainment is not only counter-productive but is non-productive. Were it not enough that being ascertained by a number of licensees inconveniences and angers some community leaders, the procedure is also said to fail to provide significant information to the broadcaster on hitherto unknown community problems. It is argued that both by being in, and involved with, the community, and by virtue of the fact that broadcasters are involved in the business of communication, licensees invariably learn of significant community problems without resort to ascertainment. A number of broadcasters pointed out, and submitted evidence of, their participation on various community boards, commissions, and agencies, which is said to provide them with knowledge of community needs and problems. Ascertainment, it is argued, does little to improve upon the knowledge gained in other ways, while all the while imposing additional burdens.

Summary

19. Commenters expressing approval of the proposal to completely eliminate the ascertainment requirement believe that marketplace forces would assure continuation of it in some form but that current requirements are either too costly or ineffective (or, indeed, are counter-productive). However, many of these same commenters expressed a desire to have the Commission set forth some indication of what it considers to be an optional ascertainment procedure that would provide a "legitimate renewal expectancy." These requests and other alternate proposals are more fully explored below.

Arguments in Opposition to the Elimination of Ascertainment

Lack of Burden

20. A number of commenters oppose any diminution of current ascertainment requirements and procedures. The Organization for Unique Radio, for instance, contends that current procedures are not onerous. Indeed, one commenter, the Department of Communication, United States Catholic Conference, cites a survey reported by the Comptroller General of the United States to Congress that claimed that 61.2% of the licensees polled found ascertainment procedures to be helpful in a range from "a very small extent to a very large extent." Entertainment Communications states that while some methodological improvements are warranted, it has not found current procedures unduly restrictive. It claims that instead, the requirements have produced significant valuable information for its stations.

Marketplace Forces Are Unable To Acquaint Broadcasters With Community Problems

21. The Organization for Unique Radio contends that ascertainment was not only not a burden to broadcasters but that the procedures are necessary to assure "diversity on the air." Maureen C. Lynch, Donna M. Kaprel and Alfonso Caci agree, arguing that without ascertainment broadcasting will become one-sided, with broadcasters being unaware of, and unresponsive to, needs of many significant segments of the community. Catherine Jensen, Information Officer in the New England Region of the U.S. Department of Agriculture, who has been interviewed in the ascertainment process, indicates that at times the process may be meaningless but that often issues are discussed sincerely and with substantive results, especially with regard to ". . . the development of nutrition information public service announcements." It is feared that without the requirement, marketplace forces would fail to result in such ascertainment and the results that it is said to obtain. The Diocese of Cleveland conducted a review of various problems-programs lists of Cleveland licensees and

figure was a non-identified response to a radio market survey conducted in Chattanooga, Tennessee. The average cost reported of stations that provided dollar estimates for ascertainments costs was $3,411 per year.

contends that this review demonstrates that, "not only are there different needs on different lists, but priorities are dramatically different from one another." Accordingly, it asserts, this disparity demonstrates that broadcasters cannot be considered knowledgeable of their communities.

22. The Department of Communications, United States Catholic Conference echoes this belief. It contends that marketplace forces would result in programming that catered only to consumer wants whereas ascertainment has a different objective. Ascertainment, it states, attempts "to determine community needs and problems and to reflect a response to those needs and problems in non-entertainment programming that offers a service to the public in return for the use of a public resource." WNCN Listeners Guild agrees, maintaining that broadcasters must be bound by specific ascertainment requirements to assure that licensees will "go beneath the surface" to learn of the needs and problems of the communities they serve. In a nutshell, it argues that:

In ascertainment, as in other areas raised by the Commission in this proceeding, there is no sure correlation between the licensee's commercial or self-interest and the public interest; the structural, conduct related requirements which are presently in effect are necessary to remedy that inevitable gap and serve the public interest requirements of the Communications Act.

23. In support of its position, the Guild submits the results of a study conducted to determine the effectiveness of allowing licensees to assume responsibility for ascertainment procedures of their own design. The study was conducted in an area of New York State in which there are two ascertainment exempt communities and one non-exempt community in close proximity. The Guild conducted an ascertainment survey in the area and compared its results with: (1) the ascertainment results of the non-exempt station; and (2) the problems-programs lists of two exempt stations. What was found was that there was a much higher degree of correlation between the Guild's ascertainment survey and the station's ascertainment survey than there was between the Guild's survey and the two stations' problems-programs lists. This commenter contends that, "the exempt stations . . ., caught virtually none of the problems uncovered by the students (that conducted the survey for WNCN Listeners Guild) or by the control station's actual formal ascertainment." Therefore, it believes, it has demonstrated that the small market ascertainment exemption was a failure and that deregulation of radio is a folly.

24. Other commenters touched, albeit briefly, on the small market exemption. National Education Association, Office of Communications, contends that it has been its experience that the absence of ascertainment requirements in small markets has hindered its ability to get its views aired. It contends that in small markets, especially on stations in Peoria and Decatur, Illinois, it has had difficulty in getting its Public Service Announcements on the air or in getting time in which to air its views. (Neither Peoria nor Decatur, Illinois, are ascertainment exempt communities.)

Summary

25. Those opposing any relaxation or elimination of the ascertainment requirement generally believe that the regulations are not burdensome or that, at any rate, marketplace forces would fail to assure broadcasters' acquaintance with, and responsiveness to, community problems. This is especially feared to be the case with regard to audiences with low purchasing power as it is believed that broadcasters have no incentive absent regulation to appeal to such groups. Accordingly, left to the marketplace, such groups, it is claimed, could not expect to be ascertained as to their needs and problems and would, therefore, not have relevant programming available. It is also contended that consumer wants are not the same as community needs so that in no case can the marketplace become an adequate substitute for regulation. Finally, an attempt is made to prove this hypothesis through an experiment that purports to show that broadcasters in communities subject to the small market exemption were far less aware of community problems than were broadcasters in nearby, non-exempt communities.

Alternative Proposals to Complete Elimination of Ascertainment

26. There was a broad consensus that ascertainment as it currently exists could, and should, be changed. While there was disagreement as to what shape such changes should take, many commenters felt that current requirements were too mechanistic, overly formalized, and could stand at least some simplification.

Optional Guidelines

27. Some commenters that were in favor of the abolition of the ascertainment requirement nevertheless asked that we retain the goal of ascertainment—knowledge of and responsiveness to the needs and problems of all significant segments of the community. As noted above, NTIA asked the Commission to emphasize this concern while eliminating ascertainment as a requirement. McKenna, Wilkinson and Kittner, filing on behalf of a number of radio station licensees, and the Ten-Eighty Corporation, both suggest that in abolishing the requirement the Commission set forth an optional guideline that would be available to radio stations and which, if followed, would provide a "legitimate renewal expectancy." The Mid-Atlantic Legal Foundation supports abolition of ascertainment but asks that the Commission list specific criteria for what it would consider to be market failure. The concern for certitude is also shared by NBC, which urges the Commission to retain the current checklist in the belief that major market licensees prefer the certainty and guidance that a checklist provides. Marin Broadcasting, and others, expressed concern over the effects that any change in our processes will have on the processing of renewal applications. It suggested that we amend our pre-filing announcements covered by Section 73.1201 of the Commission's rules to include the licensee's list of up to ten community problems and to invite the public to comment upon these perceived problems. It should be noted that not all broadcasters share these beliefs. Some, such as WBRE Radio, are concerned that anything short of complete abolition of ascertainment requirements, such as suggested above, would discourage licensees from developing flexible and innovative ascertainment methods. It is believed that, absent complete abolition, licensees would be concerned over the potential for uncertainty and delay at renewal time and would therefore continue to conduct ascertainment as currently required (or as set forth in any optional system) as a safe harbor.

Retention of a Simplified Ascertainment Requirement

28. Numerous comments supported either option 2 or 3 as set forth in the *Notice*. Although these options were similar, a brief description is warranted. Option 2, as set forth in the *Notice*, was to require that licensees conduct ascertainment but to permit them to decide in good faith how best to conduct that ascertainment. Under this option there would be no formalized Commission requirements on its conduct. Option 3 was to retain the ascertainment requirement and to have some formal requirements as to its conduct but in a simplified form as compared with current requirements. These options received widespread support, although the distinction often was blurred.

29. Licensees supporting options 2 or 3 did so in efforts to "come to grips" with uncertainty over what would be necessary for renewal of license. Thus, some licensees, such as WISM, Inc., desired adequate documentation, fearing challenge. Similarly, Susquehanna Broadcasting supports option 2; however, it would have the Commission require licensees to submit at renewal time a list of community problems and a brief statement describing how these problems were ascertained. The National Association of Black Owned Broadcasters would require an annual report to the Commission; the National Radio Broadcasters Association would also have the Commission require an annual problems-programs report. It would limit the scope of the Commission's review of these lists to, "determine if ten 'issue-oriented' problems have been listed and programming described relating to each of those problems." The list could be challenged on the basis that a listed problem was not "issue oriented," but no further inquiry would be permitted into the adequacy of the licensee's non-entertainment programming. NRBA believes that this would afford the Commission with a basis upon which to make its "public interest" determination.

30. The law firm of Dow, Lohnes and Albertson filed comments on behalf of a number of broadcast licensees. It suggests that we "retain only the general requirement that a radio licensee be able to demonstrate, by methods of its own choosing, familiarity with the needs and interests of its service area, without any precise guidelines being spelled out or enforced." Fisher Broadcasting, however, would have the Commission provide a general guide to broadcasters as to the substantive requirements of ascertainment, but leave the details of how to

conduct their ascertainment program to the broadcasters. In a somewhat different vein, Entertainment Communications states that it has not found current ascertainment procedures unduly restrictive and has obtained significant valuable information as a result of ascertainment. However, it contends that the current methodology may not be best for all licensees and, therefore, supports the view that ascertainment be required but with the methodology to be determined by the licensee based upon its individual circumstances. Licensees utilizing the current "costly" ascertainment methods would, under this commenter's proposal, receive a comparative edge for doing so should they be placed in a comparative setting at renewal.

31. Numerous nonbroadcast commenters also supported the idea of at least a lessening of the formalistic requirements of ascertainment. For instance, in its comments (which were filed in the belief that this entire proceeding is ill-conceived but that it did not wish to forego the opportunity to comment should the proceeding go forward), the United Church of Christ states that ascertainment has failed. It attributes this failure to a lack of broadcaster sincerity in carrying out their obligations in good faith. Nevertheless, it states that:

We have reached the conclusion that it would be better to start over. However, we believe it should be made clear that broadcasters have not been relieved of their statutory obligation to serve community needs and that it is impossible to serve them without knowing what they are. Accordingly, we recommend that the Commission abandon the 1976 *Ascertainment Primer*. There may well be value, however, in retaining the 1971 *Primer* for applications for construction permits, major changes in facilities and assignments of license.

The Commission should indicate that, in the event of a petition to deny or competitive application, a licensee will be required to show that it is familiar with the composition of the community of license and that its programming has been and will be responsive to its problems and needs. In particular, a licensee should be prepared to document with particularity how it identified the problems and needs of the elements of the community whose needs are usually most acute, such as persons of low income, ethnic and racial minorities, the elderly, children and youth, etc. This disclosure should be made before the Commission rules on any petition alleging a lack of programming responsive to community needs.

32. These views were expanded upon by UCC in its reply comments wherein it advances the belief that the Commission cannot totally eliminate ascertainment so long as the public interest standard remains. However, it continues, documentation can be simplified and limited to three items: (1) a brief analysis of significant demographic changes and changes in community organizations and their leadership since the previous report; (2) a list of community problems identified by the licensee as of the date of its report; and (3) a list of programs broadcast during the prior year in response to the problems identified. This documentation would be retained in each station's public file.

33. Similarly, Classical Radio for Connecticut agrees that licensees should be permitted to develop their own methods for ascertainment as existing procedures serve to divert licensees from the underlying purpose of ascertainment and instead focuses their attention on mere mechanical compliance with Commission regulations.

34. A number of other commenters likewise support some simplification. Many of them, such as the New York Chapter of NOW, the Media Reform Committee of California NOW, Inc. of the National Organization for Women, the National Black Media Coalition, and the American Federation of State, County and Muncipal Employees, believe that the dialogue between broadcasters and community leaders that has been established through ascertainment must not be lost.

Non-Listed Alternatives to Current Ascertainment Requirements

35. Some commenters suggested options that, strictly speaking, are not contained within those set forth by the Commission. Generally, these options favor a retention of ascertainment but with specific changes in the formalistic aspects of it.

36. For instance, the Religious Media Ministry recommends that we retain current ascertainment requirements but permit stations to submit an alternate ascertainment plan at renewal time. If approved by the Commission, the licensee would be free to utilize its own methodology. The United States Office of Consumer Affairs, supported in reply comments by the Committee for Community Access, proposes that the, "Commission give stations a choice of ascertainment methods (community surveys, interviews of community leaders, public hearings, solicitations of written comments, and so on) and encourage, to the extent permissible by law, experimentation with joint ascertainment to cut costs." Douglas Fraser, President of the United Auto Workers, supports the holding of public forums with community leaders to replace current requirements.

37. The National Black Media Coalition is concerned that elimination of ascertainment requirements would sorely hurt minorities, "even in (and often particularly in) northern small towns, (where) segregation is the rule not the exception." Moreover, it contends that a move to more specialized stations provides a better reason for, "more cross-fertilization of ideas among various groups, not less." Therefore, NBMC would support the following simplification of ascertainment procedures:

1. Radio broadcasters should be required to show a substantial number of ongoing consultations with community leaders in categories which, by their nature, are unlikely to be those with which most broadcasters communicate frequently. These are:* (footnote omitted)

(a) Charities
(b) Civic, neighborhood and fraternal groups
(c) Consumer service groups
(d) Labor
(e) Minority and ethnic groups
(f) Organizations of and for the elderly
(g) Organizations of and for women
(h) Organizations of and for youth (including children) and students
(i) Minorities and women

2. Radio broadcasters should be required to show that they have some systematic method of contacting local residents about community needs themselves, not through a survey company. Accessibility, and not raw numbers, should be the watchword. Thus, it should be insufficient to say "our door is always open." It should be sufficient to publicize group ascertainment sessions and open them to the public or to hold on-air "meet your station manager" forums with the public invited to call in, or to have managers and employees do a survey and report the findings directly to top management.

3. Broadcasters should not be restricted from asking about program content in ascertainment interviews. In fact, they should be encouraged to do so.

38. The United States Catholic Conference, while supporting the continuation of ascertainment, also supported some degree of modification and proposes to simplify it. It states that:

There also seems to us no necessary reason why in some situations ascertainment of needs and problems cannot be tied in some way to the target audience the format station seeks to attract, as long as the non-entertainment programming reflects those needs and problems in a significant service to the listeners and is not so exclusive of a sense of other community needs and problems that listeners cannot relate them to those wider problems and needs.

In other words, USCC proposes to permit stations to ascertain and program to the primary group(s) to which its entertainment format is directed. However, it would not permit only ascertainment and service to such group(s). Needs of other elements of the community would also have to be dealt with to some extent.

39. WNCN Listeners Guild, too, proposes some simplification of ascertainment. As with many commenters of various types, the Guild believes that the general public portion of the ascertainment survey could be substantially modified or even eliminated in the case of renewal applicants. Walton Francis contends that much of the same information that is obtained through ascertainment could be garnered at much less cost by requiring that station managers read a local newspaper at least once a week.

Summary

40. There was a wide consensus among commenters that ascertainment need not be retained in all of its current aspects. Rather, many commenters felt that while it should not be eliminated, it should either have simpler requirements for its conduct or that the methodology to be used should be left to the licensee. A number of specific proposals were made ranging from the Commission merely establishing optional guidelines for the conduct of ascertainment to its requiring a more complete ascertainment, but only of groups that usually cannot be expected to be counted among those that the broadcaster has significant contact with on a regular basis.

Discussion of the Major Issues Raised

41. We turn now to a dicussion of the major arguments made in opposition to the elimination or modification of the ascertainment requirements. These chiefly fall into two categories: (1) that formal ascertainment requirements are essential if the broadcaster is to ferret out information concerning community needs, problems and interests; and (2) that absent formal ascertainment requirements, broadcasters might ascertain the views of some groups but even if they did so they would ignore the needs, problems and interests of groups that were not economically attractive to advertisers. We first address studies submitted relative to these issues.

Ascertainment Studies

42. Several studies were submitted that relate to our proposal to remove the ascertainment requirement. Numerous commenters representing varied interests agree that the current approach to ascertainment is not effective because it emphasizes form over substance. The repetitive nature of the interviews, from the perspective both of the ascertainees and the licensees was said to lead to reluctance to participate.[30] Furthermore, the licensees sometimes find it difficult to obtain access to many leaders and had to settle for discussions with their subordinates. Finally, the responses of the ascertainees are often both general and perfunctory. Alternative methods of ascertainment are contained in the comments. For example, licensees in the Houston market have used a group process whereby all licensees get together and have a "press conference" with each official or community leader. This approach has the advantages of reducing the cost of ascertainment and conserving of the time of the community leaders. Mark Johnson studied the results of a survey of both broadcasters and ascertainees in Houston to determine their views of the group ascertainment process.[31] He found that the vast majority preferred it to the old approach but felt this might be accounted for by the savings of time allowed by the group process. He found that it did, however, create some distance between the community leaders and the licensees in that the "personal" interview no longer existed.[32] It was clear that both groups—ascertainees and broadcasters—felt that the other group was interested in being at the session and that the ascertainees were having an impact on programming.[33]

43. While many commenters argue that the ascertainment process as practiced currently is not effective, some propose changes rather than elimination of the requirement. The basis of their belief, that ascertainment of some kind is necessary, is that the licensee is not, and would not become, familiar with community problems absent some kind of ascertainment. This is especially true, these commenters claim, where the licensee is not a local resident. Other commenters argue that the licensee, or more relevantly the station manager, has a strong incentive to be aware of the community's wants and problems even without an ascertainment requirement. the motivation comes first from competitive pressure in the market and second from other statutory requirements (including the Fairness Doctrine).

44. The WNCN Listeners Guild submitted a major study purporting to demonstrate that broadcasters are not always sufficiently aware of, or responsive to community issues when not required to conduct the Commission's formal, ongoing, ascertainment studies. The Guild researchers studied three communities in central New York state.[34] Two of these communities are exempt under the Commission's small market exemption; one of these communities has two stations, and the other community one station. The third community is not exempt from formal ascertainment, and has one station. It was used for validation of the study, *i.e.*, as a "control group".[35] The four stations have considerable signal overlap, and were assumed by the researchers to have comparable audiences and comparable community needs and problems. The researchers did a community leader ascertainment study for the two exempt communities much like those required under our ascertainment primers. The researchers did not do the general survey required under the *Primers*. From this limited formal ascertainment, the students developed a "problems/issues" list for each of the exempt communities. These lists were compared to those in the stations' public files in both the exempt and non-exempt communities. Based on these comparisons, the Guild argues that stations in exempt communities are not adequately discovering the "needs" of the communities they serve. Therefore, WNCN concludes that the Commission's formal ascertainment rules should apply to all stations and should not be relaxed in this rulemaking.[36]

45. While the study provides a novel approach to measuring the effects of the ascertainment exemption experiment, it appears to have serious flaws that lead us to question the validity of the data and the conclusions. The study focused on the data gathering and record keeping aspect of ascertainment, specifically the correlation of the stations' community needs lists with the lists derived from the Guild study.[37] Putting aside for a moment the question of how closely the lists might be expected to correlate, we have several problems with the methodology used by the student researchers. First, the students rely solely on a community leader survey of the two exempt communities and do not utilize the more easily replicatable general public survey required by our *Primers* for formal ascertainment. Second, the so called "control" community cannot measure the reliability of the study as asserted. As the students noted, the "control" community varies from the exempt communities in significant ways.[38] In addition, no independent ascertainment study was done by the researchers to validate or invalidate the ascertainment efforts of the "control" group. At most, it serves as an interesting point of comparison. More important than these methodological errors however, are the problems created by the assumptions supporting the correlation studies. These assumptions do not give sufficient emphasis to the subjective judgments inherent in the ascertainment, problem identification, and responsive programming processes. Instead, these give crucial significance to the *naming* of community problems and how closely those names correlate with the names given the problems by the researchers. But, the most important flaw of the study is that it does not consider the actual programming listed by licensees. Quite simply, the object of the ascertainment requirement is not the generation of a list of community problems that can be reliably replicated. The object of ascertainment is responsive programming. From that perspective, information from the research report undermines the Guild's assertion that the stations are failing to meet their program responsibilities. These data in fact indicate, at least, that the stations may be doing a reasonable job of responding to the community problems in both their lists and the lists of the student researchers.

46. The first town examined was Monticello, New York, which has two radio stations (WVOS and WSUL) both of which are exempt from the formal ascertainment procedures. Seven problems were isolated by the students and ranked according to the percentage of those surveyed that indicated the particular "problems/needs."[39] Unfortunately, the students did not explain their methodology for rank ordering the problems. For example, it was not explained what weight was given to a problem mentioned in passing verses problem discussed at length by a leader. Once the students had deciphered the stations "records" they found WVOS had listed 8 problems, though none matched the seven identified in the survey. But the reason for a lack of correlation of listed problems apparently stems from the nature of the WVOS problems list.[40] Quite simply, WVOS

[30] The *Ascertainment Primer* requires that well over 220 local leaders be interviewed in markets the size of Houston over the course of the 3 years license cycle. Many of these leaders may be contacted by a number of licensees.

[31] Comment of Mark Johnson, in "Joint Community Ascertainment in Large Media Markets," mimeo.

[32] This loss of one-to-one contact, according to Mark Johnson, led some public interest groups to oppose the group process. *Id.*, at 2–3.

[33] We can only speculate as to whether this process would continue absent the ascertainment requirement. It is likely, however, that to the extent that both sides find the contacts useful, some form of interchange would continue.

[34] Although the main comment refers to five exempt stations in the study, only three exempt stations are considered in the attached research report. *See*, Comments of WNCN Listeners Guild, p. 28.

[35] While the students also included the non-exempt station's proposed problem oriented program plan, it was not utilized by them in their study.

[36] *Id.*, at 30.

[37] *Id.*, Exhibit C at 4–5. The study was performed by two students of Kristen Booth Glen—Michael A. Mermer and Helene E. Brenner.

[38] Comment of WNCN Listeners Guild, Attached Ascertainment Study, p. 7.

[39] In order these were: Transients, Unemployment, Lack of Business Activity, Recreation for Youth, Crime, Transportation, and Education. *Id.*, at 27–28.

[40] *Id.*, at a–3 to a–7.

did not provide a list of problems/needs, *per se*. Instead it provided eight examples of the kinds of issues covered in its programming. Examples of the content of particular programs are: *WVOS Forum of the Air*, (aired twice weekly for 15–20 minutes each) dealing with, for example (but not limited to), Health and Education; Editorials on problems facing local industry (the example given is personal injury suits against ski area operators); *Remote Broadcast* featuring, in one instance, a local science symposium; *Project Second Chance*, (aired each Sunday evening) dealing with issues of interest to women; consumer information programs aired weekly; *On The Spot*, which involved interviews with candidates for public office; *Let The People Know*, (aired Saturday mornings) dealing with Social Security related matters; and *Open Mike*, (4 days a week for about 53 minutes each) a phone-in format that sometimes focused on particular issues of local interest while at other times allowed participants to discuss any issue of concern to them. Examining this list of programming it is impossible to know the extent to which each of the topics on the students' list is or is not covered; yet it is clear that at least education oriented issues were aired.

47. An analysis of the other Monticello station (WSUL) yields a similar result. The students found four problems listed by WSUL also on their list. Examining WSUL's programming, we can identify one program category that could cover at least two additional problems on the Guild list. For example, under the general heading "Government/Civilian Relations," WSUL might have devoted time to the problems of both youth recreation and transportation. Further, "Health," which is not listed by the students but is listed by WSUL, can generally be considered important to any community. A similar presumption can be made for WSUL's listing, "The Arts." [41] In addition, the two local stations in Monticello each offer substantial amounts of nonentertainment programming based on the number of listed minutes per week. Further, to the extent that particular times of day are given, the programs are not relegated to the "graveyard" hours.

48. The second community surveyed was Ellenville, with one radio station (WELVA). The students in their survey of leaders found ten problems of signifiance, only two of which were explicitly listed among the station's six problems.[42] Like that of the Monticello stations, the Ellenville station's programming appears to have a high correlation to the Guild's problems list. WELV listed three times weekly Job Bank programs and twice daily (total of 55 minutes per day) talk programs that included local officials as guests. The latter programming allowed direct access by telephone to each of those guests. Again, while the station list did not correlate exactly with the Guild list, the station list included such general topics as: "Improvement of School Image in Public Eye," "Non-Cooperation between Public, Town and Village Officials," and "Lack of Public Confidence for State and Federal Government." [43] As with the Monticello stations, WELV did not broadcast public affairs programs in the "graveyard" hours.

49. The "control" station, WALL, Middletown, N.Y., did conduct ascertainment studies in accordance with the *Primer*. WALL listed 47 problems derived from their ascertainment, only seven of which matched the problems derived from the Guild ascertainment.[44] Further, the single problem that received the greatest amount of comment in the student's surveys (transients) was not mentioned by WALL—nor by the three exempt stations.[45] Finally, examination of the WALL programming plan does not reveal a pattern of programming significantly different from those of WELV, WVOS, or WSUL.[46]

50. The students further conclude that WELV is "substantially deficient in revealing community problems." This conclusion is based strictly upon the lack of correlation between the two problems lists but ignors both the substantial time devoted to public affairs programming and the substantial positive response of leaders in the Ellenville Community.[47] In addition, the students comment favorably on WALL's ability to identify the problem of a lack of bi-lingual programming for Spanish speaking people, but ignore the fact that WALL lists no programming designed to explicitly respond to this problem. Meanwhile, the researchers ignore the fact that WELV, provides both a Spanish language religious service and an additional Spanish language program of some unspecified kind, both on Sunday.[48]

51. Examination of the raw interview data leads to additional conclusions. First, many of those surveyed said that the radio stations attempted to be responsive even when issues of interest to that particular interviewee were not being covered. Some negative comments were received, however, regarding the perceived responsiveness of WVOS.[49] Second, several interviewees commented that when they took their problems to the radio station, the station attempted to accommodate them. A few encountered a negative reaction. Finally, the students brought out a point in their concluding remarks that was most revealing. They mentioned the perceived lack of responsiveness of WVOS and report that WVOS became more responsive following the entry of WSUL. WSUL was consistently accorded very favorable comment regarding its efforts in the community. It appears that the students correctly attributed this result to the competition generated by WSUL's entry.[50]

52. This analysis of the WNCN study points out clearly the difficulty of designing and assessing an experiment of the kind envisioned by the small market exemption rule making. The ascertainment process is concerned with inherently subjective data. Although some parts of the process are highly structured, at other points the Commission places great reliance on the subjective judgments of licensees. Although this subjective element is necessary and appropriate in the ascertainment process, it makes correlation studies such as those submitted by WNCN Listeners Guild of questionable validity, and possibly very misleading. It is virtually impossible to reach a concensus regarding the value to place on any given observation. Reasonable people can disagree, not only as to the appropriate weight, but with regard to the appropriate criteria to use in establishing the success of failure of the experiment itself.

53. Finally, there is no demonstration that the listeners were generally dissatisfied with the subjects of the issue oriented programming offered by the exempt stations or that the choice of programming actually offered would have been different had ascertainment been required.[51] In other words, had ascertainment been required, and resulted in the same findings as did the Guild's survey, it appears to us that the exempt stations' programming, as offered without their having had to engage in the ascertainment process, was sufficiently related to the students' "ascertained" issues to have passed muster before the Commission under the current regulations. There is no showing that the exempt stations were less responsive to community issues than they would have been had

[41] In a later submission, the Guild reported that WSUL had utilized the same list for several years. The list is generic and does not refer to specific episodes of programs. This and the difficulty the Guild had in deciphering WVOS's records points out a record-keeping problem that our resolution of the ascertainment question should eliminate.

[42] The students listed: Alienation of the Spanish, Unemployment, Housing, Transportation, Recreation, Revitization of the Town, Education, Senior Citizens, Drug Abuse, and Transients. These are not listed in order by the percentage of those surveyed that named the problem as important. Ranked by that criterion "Transients" would be first and "Alienation of the Spanish" would be tenth. *Id.*, at 28–30.

[43] *Id.*, at a–1 and 2–2.

[44] *Id.*, at a–16 and a–17.

[45] We must point out that the students did not survey Middletown leaders, therefore we do not know whether community leaders consider transients a problem in that community. However, by not undertaking this survey, it was impossible to compare the actual responsiveness of the Middletown station—in terms of leaders subjective opinions—to the responsiveness of the Monticello and Ellenville stations.

[46] *Id.*, at a–18 to a–22.

[47] *Id.*, at 34–35.

[48] Comments of interviewee Manuel Polanco. *Id.* at 17. Mrs. Polanco comments that additional Spanish language programming would be desirable. She is the only interviewee in the law students' survey in either Monticello or Ellenville that commented on the problems of the Spanish speaking community.

[49] *See*, for example, the comments of Buddy Goldsmith, Director of Recreation. *Id.*, at 23.

[50] The students go to suggest that this may only be the result of WSUL's recent entry and infer that things may change. It is not clear why they believe this to be true but it certainly is not ordained. Even where only one station exists—in Ellenville—the radio station was considered very responsive; therefore, WVOS might be the exception rather than the rule. *Id.*, at 34.

[51] We agree with the Guild that the other Monticello station, WVOS, utilized a listing of problems and programs that made it difficult to analyze which issues were addressed. Yet several ascertainess expressed the opinion that WVOS was doing a good to excellent job with only two ascertainees, Harriet Feinman and Buddy Goldsmith, expressing serious displeasure with WVOS's performance.

ascertainment been required. Therefore, there is no showing of a significant public interest gain associated with the Commission's ongoing formal ascertainment requirement.

54. Another study regarding ascertainment was submitted by the Diocese of Cleveland. That study is described above in the review of the comments filed with regard to ascertainment. The principal conclusion of the study is that different stations, each of which is in the same market, developed nonidentical lists of needs and were responsive to different needs. This is said to demonstrate that stations cannot be considered knowledgeable about their communities. Assuming that there are no methodological problems with the study, we believe it sufficient to say that we would hope to see diversity reflected in programming with or without ascertainment. Indeed, the possibility that all stations in a community would program to meet the identical issues as a result of ascertainment would be a strong reason to jettison the requirement.[52] We believe that diverse programming is desirable and that the changes we are making in this proceeding are well suited to promote such diversity. Additionally, if, assuming *arguendo*, the Diocese's premise is correct and that ascertainments should result in the identification of the same problems by stations in the same community, but does not, one must question the validity of its conclusion that ascertainment should not be eliminated.

Ascertainment and Economically or Numerically Insignificant Segments of Society

55. We turn now to other major arguments raised in opposition to the elimination of ascertainment. One such argument was that absent ascertainment, stations would not seek out information relative to, or provide programs responsive to, issues important to either the community at large or, especially, to numerically or economically "insignificant" elements of the community. As we discussed above, there are reasons why we believe that this will be an unlikely result.[53]

56. As noted, we are requiring licensees to determine what issues confront their community and to offer programming responsive to some of those issues. This obligation exists independently of broadcasters' statutory Fairness Doctrine obligations. Accordingly, some "ascertainment" will undoubtedly continue so that licensees can make intelligent choices with regard to what issues are present and warrant coverage. Thus, an extended discussion of whether marketplace forces are sufficient to dictate that result is unnecessary. What methodology a broadcaster utilizes to become informed of the issues facing his community is up to the individual licensee. However, a significant question has been raised, and warrants our attention, as to whether or not broadcasters in seeking out the advice of their communities will seek out the views of, and respond to the issues faced by, numerically or economically insignificant segments of their communities.

57. The argument has been made in the comments that while stations might survey at least portions of their community absent an ascertainment requirement, they would not survey certain portions of the community. Generally this allegation contended that broadcasters would have no economic incentive to ascertain the needs of, and therefore to program to meet the needs of, groups that were not attractive to advertisers primarily because of their low numbers or low income. For the reasons explained in the section of this *Report and Order* concerning the non-entertainment programming guideline, and in Appendix D at paragraphs 32–36, we do not believe that this is a likely result of the action taken herein.[54]

58. To reiterate, structural measures have been, and are continuing to be developed to assure that groups hitherto absent from representation in the broadcasting community, both as licensees and employees, are represented. The *raison d'etre* of these policies is to result in programming relevant to these groups. Minority groups especially are receiving the benefits of these Commission programs. As minorities are perhaps the principal groups mentioned as being among the groups that would lose relevant programming should ascertainment be eliminated, we think it important to point out that our structural policies have, in part, focused on attempting to assure the presence of relevant programming for minority groups. Additionally, as discussed in greater detail above, minority groups represent a large and ever increasing economic force which makes it likely that there would be advertiser support for programming directed to issues specifically related to minority groups as they move into the economic mainstream of society. This should assure programming responsive to the needs of minorities absent ascertainment.

59. Finally in this regard we would point out that although it is obvious that there is a fragmentation in the formating of radio stations, and in the audience, it is simplistic, if not outright condescending, to assume that any group in our richly pluralistic society is interested only in programming concerning its specialized issues. As we have previously found in confronting renewal challenges based upon claims that the licensee has offered insufficient programming specifically directed to particular groups:

> The fundamental misconception reflected in this criticism is that somehow minorities are not interested in the problems and interests of the community, and that their needs are served only by programs devised specifically for those groups. We have rejected this theory on a number of occasions. *The Evening Star Broadcasting Co.*, 27 F.C.C. 2d 316, 322, *aff'd sub nom., Stone* v. *F.C.C., supra.*[55]

Indeed, we have concluded that many types of programming cannot be broken down into minority or majority orientation and have stated that, "Such a policy would constitute a doctrine of segregation."[56] Radio should contribute to the creation and maintenance of an informed populace. Stations must be responsive to community issues to this end. Their primary obligation is not to provide programming for any specific group or individual but to inform the community.

The Small Market Exemption

60. One final note regarding ascertainment is worthy of mention. By Commission *Order* released May 9, 1980, (FCC 80-277), we directed that the small market ascertainment exemption (SME) experiment be considered in the context of this proceeding. Those comments were considered in our reaching a resolution of the larger ascertainment question. Principally, they consisted of a comment filed by the WNCN Listeners Guild and a statement filed by Andrew Jay Schwartzman, Executive Director of Media Access Project.

61. WNCN updated its study discussed above. That update is said to bolster the proported findings of the earlier study that ascertainment exempt stations were significantly less responsive to community issues than were non-exempt stations or than they would have been had they conducted ascertainment. However, we believe that in addition to the flaws in the principal study, discussed above, the Guild has failed to adequately consider two items that surfaced as a result of the update of the study. First, as became apparent in the update, one of the exempt station did, indeed, present a program dealing with transients prior to the Guild's filing of the study. WVOS listed a program on a proposed fingerprint law for transient workers as being among specific programs presented during the year ending January 31, 1980. Second, two complaints had been filed against an ascertainment exempt station, the other against a non-exempt station. Neither complaint argued that the station had not been responsive to community needs. With regard to the subject of complaints, the Guild contends that, "The fact that petitions to deny or informal complaints were or were not lodged, tells us nothing about whether exempt licensees adequately acertained their community." (WNCN SME Comment, p.10). We continue to believe that such complaints certainly tell us whether or not the listenership felt that community needs were being sufficiently addressed and therefore disagree with the Guild's conclusion in this regard. One final note; the Guild points out that one of the exempt stations utilized the same problems/programs list for a number of years. Both the "problems" and the "programs" listed were generic and not specific. At any rate the action being taken herein should result in a more specifc record.

62. In adopting the *Order* in the small market exemption proceeding, we noted that

[52] Even in the 1971 *Ascertainment Primer*, while noting that diverse stations might program to meet the same need but in different ways, we stated that stations still had substantial discretion as to which ascertained issues it should respond to. See, *Ascertainment Primer, supra*, pp. 672–673, and Question and Answer 25.

[53] See paragraphs 32–36, Appendix-D, *supra*.

[54] Needless to say, however, we would view intentional discrimination against low income or minority groups with the utmost gravity.

[55] *Miami Valley Broadcasting Company, supra*., p. 185.

[56] *Columbia Broadcasting System, Inc.*, 46 F.C.C. 2d 903, 910 (1974).

survey of citizens in exempt communities would have been expensive to undertake and would not have provided us with unambiguous evidence on the success or failure of the experiment. We stated that the complaint and petition to deny processes, as well as our evaluation of renewal applications, permitted us to gauge the results of the experiment. Over a three year period, we noted, the rate of petitions to deny renewal of license was lower in exempt communities than it was in non-exempt communities (for radio less than one half of one percent of the exempt radio stations were the subject of such petitions versus 2.3 percent of all radio stations) and that, in fact, only two of the petitions filed against renewal in exempt stations included ascertainment issues. Neither of those petitions had resulted in an adverse finding against the licensee as of the time of the *Order*. In view of the flaws in the WNCN study, discussed above, and our finding concerning complaints against exempt stations, we do not believe that such serious questions have been raised with regard to the experiment that would prevent us from taking the action described above regarding ascertainment.

Appendix G.—The Commercial Guidelines

A Brief History of Commercial Regulation

1. The Commission's concern with commercial practices has been marked by two basic features: a desire to prevent the use of scarce broadcast time primarily to promote private advertiser interests and a reluctance to adopt quantitative standards.[1] Hence, while the Commission has always closely scrutinized a licensee's commercial practices, the Commission has not specified any outer limit beyond which no licensee can ever transcend.

2. Concern about the commercial practices of broadcast stations goes back more than 50 years. In *Great Lakes Broadcasting Company*, the Federal Radio Commission stated: "Advertising must be accepted for the present as the sole means of support for broadcasting, and regulation must be relied upon to prevent abuse or overuse of the privilege."[2] The Commission also took actions that reflected concern about proposed and past commercial practices.[3]

3. In 1960, the Commission summarized its policy as follows:

> With respect to advertising material, the licensee has the additional responsibility . . . to avoid abuses with respect to the total amount of time devoted to advertising continuity as well as the frequency with which regular programs are interrupted for advertising messages.[4]

There were, however, no real standards by which to judge compliance with that policy since decisions prior to the 1960 *Policy Statement* were case-by-case rulings. As a consequence, E. William Henry, then Chairman of the Commission, testified before the House Committee on Interstate and Foreign Commerce in 1963, that he "did not know and no one could know" what the Commission's policy on overcommercialization was.[5]

4. Chairman Henry's declaration occurred during Congressional hearings concerning a Commission rule making proceeding proposing commercial standards.[6] The Commission's proposal received strong opposition—an opposition punctuated by House ratification of legislation (H.R. 8316) in 1963 that would have prohibited any Commission rule prescribing "standards with respect to the length or frequency of advertisements which may be broadcast by all or any class of stations in the broadcast services."[7] Although the Commission subsequently decided not to adopt the rule, it did, warn broadcasters that it would still closely monitor commercial practices.[8]

5. New administrative alternatives to the case-by-case approach, however, began to be employed. In *Florida Renewals*,[9] the Commission granted the renewal application of stations with a record of heavy commercial loads, but requested a follow-up report on the number of complaints received, the number of times the licensee exceeded 18 minutes of commercial matter per hour, and a statement as to why its commercial policies were consistent with the public interest. In 1970, the Chief of the Broadcast Bureau, with Commission approval, sent a letter to Peoria Valley Broadcasting, Inc., licensee of WXCL. The letter, although never published, became a processing standard for the staff. It stated that the licensee's commercial policy "would obviate any problem with the commercial aspects of your operation at the next renewal period." That commercial policy specified "a normal commercial content of 18 minutes in each hour with specified exceptions. . . ." The standards announced in the WXCL letter were later incorporated in the rules setting out the authority delegated to the Chief of the Broadcast Bureau.[10] The present delegation of authority with respect to commercial policy is set out below.[11]

6. Pursuant to the delegations of authority to the Chief of the Broadcast Bureau, the Commission has issued prehearing letters in cases where licensees have proposed commercial policies that greatly exceed the guidelines.[12] Licensees that exceed the proposals submitted to the Commission have been granted short-term renewals[13] or have been admonished,[14] according to the circumstances.

7. There have been very few cases on the subject. In an appeal growing out of a comparative proceeding, the Court asked the Commission to respond to several questions, including the following:

1. Is the amount of TV time actually used in stating, singing or otherwise showing commercials a public interest consideration?

2. If so, should the Commission be required to consider the length and number of commercials proposed by the competing applicants in this case?[15]

In its supplemental brief, submitted in response to these questions, the Commission stated:

> The amount of time devoted by television broadcast stations to advertising messages is one of the factors which the Commission may properly consider, and may assume significance in the public interest judgment in particular circumstances. The governing statute, decisions of the courts, and Commission precedent make this amply clear.[16]

The Commission urged that the circumstances of the case did not warrant remand for consideration of the commerical practices of the applicants. The case was not remanded, and the Commission's award of a construction permit to one of the applicants

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[1] The concern over the possible abuse of the license privilege was one which arose early on in the history of broadcast regulation. For example, Secretary of Commerce and Labor, Herbert Hoover, asserted that:

> Radio communication is not to be considered as merely a business carried on for private gain, for private advertisement, or for entertainment of the curious. It is a public trust and to be considered primarily from the standpoint of the public interest to the same extent and upon the basis of the same general principles as our other public utilities. 67 Cong. Rec. 5484.

[2] 3 FRC Ann. Rep. 32, 35 (1929), *aff'd.*, 37 F.2d 993 (D.C. Cir. 1930), *cert. dismissed*, 281 U.S. 706 (1930).

[3] For example, based on proposed or past commercial practices, the Commission has denied applications [*R.R. Jackson*, 5 FCC 496 (1938); *Travelers Broadcasting Service Corporation*, 6 FCC 456 (1938)]; conducted hearings on renewal applications [*The Community Broadcasting Co.*, 12 FCC 85 (1947); *The Walmac Co.*, 12 FCC 91 (1947); and *Michigan Broadcasting Co.*, 20 RR 667 (1960)]; considered commercial practices in comparing mutually exclusive applications [*Sheffield Broadcasting Co.*, 30 FCC 579 (1961); *Fisher Broadcasting Co.*, 30 FCC 177 (1961)]; and granted short-term renewals [*Gordon County Broadcasting Co.*, 24 RR 315 (1962)].

[4] *Programming Statement*, *supra*, at 2313.

[5] *H.R. Rept. No. 1054*, 88th Cong., 1st Sess. 24 (1963).

[6] The *Notice of Proposed Rule Making* was published at 28 Fed. Reg. 5158 (1973).

[7] *H.R. Rept. No. 1054*, *supra*, at 9.

[8] *Commercial Advertising*, 36 FCC 45, 49–50 (1964).

[9] 9 RR 2d 639 (1967); *see also, WDIX, Inc.*, 14 FCC 2d 265 (1968).

[10] *Delegation of Authority*, 43 FCC 2d 638 (1973).

[11] 47 CFR § 0.281(a)(7) provides that the Chief of the Broadcast Bureau may not grant applications exceeding the following critieria:

(i) Commercial AM and FM proposals in non-seasonal markets exceeding 18 minutes of commercial matter per hour, or providing for exceptions permitting in excess of 20 minutes of commercial matter per hour during 10 percent or more of the stations' total weekly hours of operation.

(ii) Commercial AM and FM proposals in seasonal markets (*e.g.*, resort markets) exceeding 20 minutes of commercial matter per hour during 10 percent or more of the station's total weekly hours of operation.

(iii) During periods of high demand for political advertising proposals exceeding either (a) an additional 4 minutes per hour of purely political advertising or (b) exceeding 10 percent of the station's total hours of operation in the applicable lowest-unit-charge period.

[12] *See, e.g., Marion Broadcasting Co.*, 44 RR 2d 1045, 1046–1047, 1056 (1978).

[13] *Enid Radiotelephone Co.*, 67 FCC 2d 19 (1977).

[14] *CBS, Inc.*, 41 RR 2d 1350 (1977); *Chattahoochie Broadcasting Company*, 69 FCC 2d 1480 (1978).

[15] *South Florida Television Corp.* v. *FCC*, 4 RR 2d 2048 (1965).

[16] Supplemental Brief, p. 2, Case Nos. 18,873 and 18,880, in the United States Court of Appeals for the District of Columbia Circuit.

was affirmed. Other than to note the Commission's response, the matter was not further discussed by the majority of the panel,[17] although the dissenting judge did briefly comment on the matter.[18] Later, however, in *Citizens Communications Center* v. *FCC*, the Court stated that the "elimination of excessive and loud commercials" was one of several tests of "superior service" in comparative hearings between new and renewal applicants.[19]

8. In sum, although the Commission may and does review the commercial practices of licensees, the Commission has not adopted rigid rules. Nor has the Commission foreclosed the possibility that competitive market conditions may, under some circumstances, render the Commission's scrutiny unnecessary.

Summary of Comments

Introduction

9. The comments and reply comments summarized below involve the proposals in the *Notice* to modify or eliminate the commercial regulations. Although no attempt was made to identify the specific suggestions of each commenter, this summary highlights the most important issues raised concerning the commercial guidelines, and provides a general sense of the position of most commenters. Named commenters ordinarily gave particularly extensive treatment to the specified areas, or were especially representative of the position taken by themselves and others.

Broadcaster Comments

10. The comments summarized here are from commercial broadcasters, broadcast networks, and broadcast trade organizations. This group expresses near unanimous approval of the preferred option to eliminate the commercial time guidelines, but also expresses some reservations on how the elimination would affect license renewal procedures. The major items discussed in these comments include: (1) the legality of the current rules, especially in light of recent "commercial speech" decisions of the United States Supreme Court, (2) the regulatory burden of the guidelines and their effect on radio advertising amounts in the current competitive environment, (3) public interest issues, including the potential advantages of guideline elimination, and (4) use of the guidelines on a voluntary basis whereby broadcasters could conclusively demonstrate satisfactory commercial service for purposes of license renewal.

Legality of Guidelines

11. The legal issue of the guidelines is addressed in two ways. Several broadcasters challenge the Commission's adoption of the current processing guidelines on the basis that they run counter to the legislative intent of the Communications Act, as well as the implication of later Congressional and Commission rejection of laws and regulations designed to limit commercial time. Broadcasters also underline the relatively recent attention given commercial speech by the Supreme Court as a matter of First Amendment law. Citing cases such as *Virginia Pharmacy Board* v. *Virginia Citizens Consumer Council*, 425 U.S. 765 (1976), and *Bates* v. *State Bar of Arizona*, 433 U.S. 350 (1977), the commenters note that the Court has become increasingly sensitive to the interests of both consumers and advertisers in the free flow of commercial information, and that under these recent opinions the commercial guidelines are probably unconstitutional.

Burden of Guideline

12. Perhaps the most persistent theme of broadcaster comments is that the guidelines impose daily regulatory burdens on the broadcasters, but have nearly no effect on the amounts of advertising aired. The radio marketplace is said to be highly competitive, leading the great majority of broadcasters to stay well below the amount of commercial minutes permitted by the guidelines. Competition, not federal regulation, is said to make excessive commercialization self-defeating for radio broadcasters. The reply comment of American Broadcasting Company (ABC) may best summarize of the position of broadcasters: "It is simply too easy for the public to turn the dial." Broadcasters generally cite the data in the *Notice* and comments of other groups including the National Telecommunications and Information Administration (NTIA) indicating that the number of stations has increased dramatically in the past several years, especially since the wide-spread popularity of FM radio. They also note that other rule makings now being considered by the Commission would increase the number of available channels, stimulating more competition and further inhibiting excessive commercialization.

13. The National Association of Broadcasters (NAB), for example, emphasizes in reply comments that competition poses a double disincentive for broadcasters tempted to overcommercialize. Not only do listeners "tune out" stations with too many ads, but additionally advertisers are very sensitive to "commercial clutter," which decreases the effectiveness of individual ads. Charges that small markets are not subject to the competitive forces that limit commercialization are countered by citing the studies by the Commission and NAB which indicate that small markets have a lesser tendency toward heavy commercialization than some others. Broadcasters attribute this to two factors: (1) strong intermarket competition, especially acute for small markets with nearby cities, and (2) small commercial communities, insufficient to support high commercial loads. NAB also objects to what it claims is a "misinterpretation" of Commission data. Several opposition commenters compared the number of incidents where stations met or exceeded the current guidelines to the number of stations in a market. This, NAB avers, is unfair because the relevant comparison is the number of incidents of commercials in excess of 18 minutes per hour to the total number of programming hours. Relying on its own data using this comparison, NAB reports that among the 2,234 stations surveyed, over 96 percent of all radio hours contained 18 or fewer minutes of commercial time. Similarly, NAB and other broadcasters rebut those who argued that the current guidelines now create an upper barrier that would be broken by many broadcasters if removed by noting that the largest number of programming hours contain 12–14 minutes of commercial time, with declining numbers of hours above and below that amount.

Public Interest Advantages of Eliminating the Guideline

14. Broadcasters also detail possible public interest advantages of the preferred option. Most prevalent is the idea that the concept of consumer satisfaction used in the *Notice* is a legitimate way for the Commission to apply the public interest standard of the Communications Act. Asserting that competition gives listeners, not advertisers or station owners, ultimate control over radio programming and advertising levels, broadcasters contend that listeners are the best persons with which to vest that control. They agree with the *Notice* that the commerical time limits of the guidelines are little more than "value judgments" by Commission personnel, and claim that listeners are a much more legitimate, direct, and otherwise preferable source of those value judgments. Consumer judgments, according to the broadcasters, would be much more quickly reflected in changes in the marketplace, and would force a more varied array of programming alternatives than now allowed by the rather uni-dimensional processing guidelines. The range of alternative commercial approaches that might be made available through elimination of the guidelines is said to be bounded only by listener preferences, and might range from nearly commercial free stations specializing in such things as beautiful music or classical music to stations that offered prolonged "swap shops" or "classified ads of the air."

15. So, too, some broadcasters agree with other commenters, such as the National Black Media Coalition (NBMC), who suggest the more advertising in some cases may better serve the public interest. More ads could mean cheaper spots for small market and minority advertisers, and thus encourage greater use of the medium by consumers and advertisers now artificially restricted from the market. At the same time this increased commercialization could help fledgling stations, especially in small markets or with experimental or minority formats, by increasing their revenues.

Impact on Renewal Proceedings

16. The other major concern of commercial broadcasters involves the impact of the preferred option on license renewals, especially in the context of comparative hearings. Several of the broadcasters suggest that the guidelines become voluntary with broadcasters, and that by meeting them stations would make out a *prima facie* case of satisfactory commercial service that would be sufficient for license renewal. Broadcasters could still choose not to follow the guidelines, but would be allowed at renewal to demonstrate that their performance was also deserving of renewal.

[17] *South Florida Television Corp.* v. *FCC*, 349 F.2d 971 (D.C. Cir. 1965).

[18] *Id.*, at 973.

[19] 447 F.2d 1201, 1213, n. 35 (D.C. Cir. 1971).

This system is said to serve the public interest because it would inject more certainty into the renewal processes, but would allow some stations to opt for differing approaches to commercial service. National Radio Broadcasters Association (NRBA) suggests a variation on this idea. NRBA would retain the guidelines to facilitate renewal but would tie them to the non-entertainment guidelines, imposing non-entertainment duties in proportion to each station's commercial load.

17. Another important concern for broadcasters was the proposal in the *Notice* that if the preferred option is adopted the Commission would monitor markets and make a market-wide evaluation of all stations in each market. If excessive commercialization occurred in these markets, the Commission would consider some remedy to stem those excesses. Licensees uniformly object to the concept, saying that it would indirectly re-impose the guidelines, could foster inconsistent and capricious action by the Commission, and would impose an inefficient regulatory burden on the broadcast industry.

Non-Media Organizations

18. The comments summarized here are from organizations which do not have mass media issues as their primary focus. These commenters are most often concerned about the potential effects of the proposed changes on their ability to achieve their own missions, but many also offer their comments on behalf of the more general public interest. Churches provided the bulk of this category but several unions and other social and political action groups were also represented. Most of these commenters oppose adoption of the preferred option on commercial guidelines largely as an adjunct to broader disapproval of the concept of radio deregulation, or as part of a more generalized distrust of advertising as the primary source of radio financing. Other organizations generally favor elimination of the commerical guidelines.

19. Both church and union organizations largely oppose the preferred option, or any relaxation of the current processing guidelines. Several are concerned that lack of commerical restrictions would generally decrease stations' sense of public service responsibility and correspondingly increase the power of advertisers. The United States Catholic Conference, for example, suggests that if the guidelines are lifted stations will test the "tensile strength" of consumer tolerance of advertising excesses, then operate just below that tolerance level. In reply comments they respond to those suggesting that the marketplace is now generally more limiting than the Commission's rules by contending that if that is true then the rules only affect the few potentially egregious violators. If so, they argue, the guidelines are of nearly no consequence or cost to the great majority of stations, but of great public interest value and should be retained.

20. Some organizations contend that lack of commercial restrictions would be undesirable because advertisers would become so powerful as to change the character of programming to more directly conform to commercial interests. The General Conference Mennonite Church, for example, cites scholar Herbert I. Schiller, and the 1979 *Carnegie Report on Public Broadcasting* to support its contention that if radio is commercially deregulated advertisers will further fabricate needs to increase sales, and "the entire cultural and social apparatus of the nation will become transformed by . . . the merchandizing of consciousness."

21. Some who oppose the elimination of the guidelines state that commercial radio avoids programs not conducive to commercial interests, and that this tendency would increase without the guidelines. American Federation of State, City, and Municipal Employees, for example, argues that advertiser influence leads to an anti-union bias, and suggests that to counter this influence the Commission should require a percentage of station profits be "reinvested in public affairs programs." The United Auto Workers Union is among those who suggest that the neo-classical economic analysis in the *Notice* is inappropriate here because advertisers are the consumers and the listening audiences are the product in advertising financed radio. This refers to the fact that advertisers are the most direct purchasers of broadcasting, buying "spots" of broadcast time designed to reach the greatest possible numbers of potential buyers. Although the probable consequence of this system is addressed in some detail in the *Notice*, several of these commenters emphasize the power to control programs that might result if the processing guidelines are eliminated.

22. Also, the variety of listener preferences and resulting measures of consumer satisfaction are said to be manipulated by advertising, and thus are not indicative of the greater diversity that might emerge if advertiser control were weakened rather than strengthened as the preferred option would presumably do. While agreeing with the *Notice* that there is some form of diversity through increased numbers of stations and greater format availability, this diversity is said to be greatly restricted because existing consumer preferences are largely molded by existing fare, which is in turn restricted by the narrow range of radio formats conducive to the sale of advertising.

23. Most political action organizations in this group oppose elimination of the guidelines because of concern that deregulation generally would decrease the broadcasters' sense of public trust and civic responsibility, and, as a result, broadcasters would ignore their causes and causes of other social and political action groups. Arguing that the guidelines have a strong symbolic effect, the Puerto Rican Legal Defense and Education Fund, for example, asserts that their elimination "may tip the power in favor of the advertiser, and the (increased commercial) time might come out of that now spent on minority programming." Several groups also share the concern of many individuals and media action organizations that since Public Service Announcements are the functional equivalent of ads to listeners, stations will tend to decrease or eliminate the announcements to make room for more ads without increasing commercial "clutter."

24. Other of these organizations generally favor commercial deregulation. The American Federation of Small Business, for example, notes that most radio stations are small businesses and according to station financial reports only 67% of such stations declared a profit in 1978, presumably because of the burden of commercial and other regulations. The Washington Legal Foundation and the Mid-Atlantic Legal Foundation, emphasize the positive competitive impact of eliminating the limits, arguing that the increased competition would actually increase the control that audiences have on programming.

Media Action Organizations

25. The comments summarized here are from "public interest" law firms and other social and political action organizations which focus on the operation of the electronic mass media. These organizations largely oppose adoption of the "preferred option" of eliminating the commercial guidelines. Several generally oppose the preferred options in all four of the major categories addressed in the *Notice*, but find the elimination of the commercial guidelines least offensive to their positions. Many commenters object to the very theory of marketplace regulation and its application to commercial limits, while others disagree with either the application of the economic theory or the interpretation of the data. A few commenters claim elimination of the guidelines could strengthen minority broadcasting and increase commercial use of the medium by both consumers and advertisers because of decreased rates.

The Marketplace and the Public Interest

26. The prevalent theme of opposition stems from disagreement with the economic and commercial theory undergirding the *Notice*. The marketplace theory was said to run counter to the public interest and the information needs of citizens in a democracy.

27. Asserting that the *Notice* would wholly substitute the commercial interests of broadcasters and advertisers for the public interest standard of the Communications Act, several of these commenters proceed to disagree with that construed substitution. Essentially, this disagreement rests on the assumptions that the marketplace is distorted in commercial broadcasting, and that even with optimum marketplace efficiency the public interest would not be wholly served. The marketplace is said not to work in broadcasting largely because: (1) advertisers are the most important consumers of the broadcast product, which in turn is said to be the audience; and (2) several segments of the broadcast audience are socially significant but commercially undervalued. Elimination of the commercial guidelines would presumably exacerbate these shortcomings, leading to increased programming power of advertisers and less programming in the public interest.

28. The idea that important audience segments are commercially unattractive and thus undervalued in programming decisions is held by several including Action for Children's Television (ACT) and WNCN Listeners Guild. Relying on evaluation of its own experience with children's TV programming, ACT claims that although children are highly impressionable and heavy broadcast consumers, there is little

programming designed specifically to meet their needs and interests because they are demographically attractive to few advertisers. Other organizations identify other groups that may not be served well despite their numbers and social importance, including minorities, the elderly, the poor, and the handicapped.

29. Some commenters, including the San Diego Committee on Media, maintain that the theory of marketplace regulation of commercials is inconsistent with the needs of a democratic society. Reasoning that democracy depends on a politically informed citizenry, and that without commercial controls broadcasters would concentrate on only commercially related information, these commenters argue that broadcasting should be set apart from such competitive commercial influences.

Alternative Economic Theory and Analysis

30. Some commenters in this group also identify alternative applications of the economic theory presented in the *Notice*, or offer different applications of the data appearing there, or supplied by other commenters. Two major points are stressed: (1) market control of advertising necessarily leads to advertising in excess of consumer "wants"; (2) the data indicate that existing guidelines cause minimal, if any, burden on the industry.

31. The joint comments authored by the American Civil Liberties Union, for example, press a different construction of the market system in the broadcasting context. The joint commenters state that the market does not regulate the amount of advertising listeners want, but the maximum amounts broadcasters can use to increase profits. Although audiences may want little advertising, they will tolerate much more so long as other wants are satisfied. According to the comment, this demonstrates that the market system does not operate to maximize the satisfaction of consumer wants in commercial radio, but instead creates a degree of persistent market failure.

32. Reply comments by Public Media Center (PMC) may most clearly represent those who gave an alternative interpretation of the commercial time data in the *Notice* and submitted by NAB. Rather than emphasizing the degree of compliance with the guidelines or the lower average of commercial minutes aired by the majority of stations, PMC underlines what it calls the "steady level of noncompliance" with the guidelines. This is said to be evidenced by 11.5% of stations violating them at least once over the period data were collected for the *Notice* and by violations during 3.5% of the broadcast hours surveyed by NAB. Similarly, United Church of Christ (UCC) and Committee for Community Access (CCA) suggest that while the guidelines are not responsible for the comparatively low average of commercial minutes, the clustering of a few stations around the maximums demonstrates that they deter those few stations which might engage in the most egregious excesses.

Lack of Burden

33. The regulatory burden on broadcasters, the Commission, and others allegedly created by the guidelines is also disputed by some of these commenters. PMC, for example, asserts that because the guidelines are voluntary rather than required, and because they create only infrequent and indirect government intervention while providing broadcasters with some certainty and security, the guidelines impose the least possible regulatory burden. Also, assuming that commercial regulations are mandated by the public interest standard of the Communications Act, PMC and others assert that the Commission is without the administrative authority to change the guidelines without a more detailed, specific, and convincing record detailing their ineffectiveness and inefficiency.

Alternate Proposals

34. Media action groups do not unanimously oppose the preferred option, and some who generally dissent from the preferred options in all four areas of deregulation express willingness to experiment with elimination of the guidelines. UCC, for example, states that it would rather retain the guidelines but contends that elimination might give radio broadcasters a "sense of enhanced freedom" and in light of the available data "might well have no significant impact at all." Thus, UCC would not object to experimental elimination if it is combined with a requirement for the airing of public service announcements as proposed by Media Access Project (MAP) and considered in the *Notice of Inquiry in the Airing of Public Service* BC Docket No. 78-251.[39] Some groups representing minority interests, including the national offices of the National Black Media Coalition (NBMC) and American Women in Radio and Television (AWRT), give guarded support to guideline elimination. NBMC, for example, says that elimination of the guideline could strengthen Black radio by lifting the "artifically imposed shortage of radio airtime for advertising." This shortage is said to manifest itself in three ways: (1) absence of programs on which consumers can advertise, such as want ads or consumer sell-a-thons; (2) increased price of commercial spots, which especially hurt small minority businesses; and (3) weakened ability of marginal Black stations to attract needed capital to support public service programming.

Government Agencies

35. The United States Department of Justice, Anti-trust Division, strongly supports elimination of the commercial limits. This is based on the assertion that appropriate levels of advertising in markets "can be better determined by individual licensees subject to the discipline of competitive forces than by government regulation." Assuming the value of the preferred option, the comment addresses three items others found problematic in this proceeding and determined that none should hamper elimination. Specifically, the comment concludes that the preferred option is within the discretionary power of the Commission, and that neither the Fairness Doctrine nor the comparative hearing process preclude the proposed deregulation.

36. The United States Office of Consumer Affairs applauds the efforts by the Commission to re-examine some of the core assumptions and policies of radio regulation. The comment supports significant reform and refinement of the requirements, but does not favor complete elimination of the current processing guidelines for commercial advertising. Specifically, the Office suggests that some guideline should be retained, and cites two problems with the Commission's marketplace analysis as applied to radio. First, they assert that the current rules tend to be self executing, making it difficult to predict behavior of the licensees in an unregulated market. Second, specialized markets may be less susceptible to competition, thus more susceptible to commercial excess absent regulation.

37. The Council on Wage and Price Stability supports the preferred option based on the Commission's reasoning and data. However, it suggests the continued monitoring of stations and markets and selective reimposition of guidelines if excesses occur.

38. The United States Department of Commerce, National Telecommunications and Information Administration (NTIA) submitted extensive initial and reply comments strongly favoring elimination of the commercial guidelines. NTIA says that it considers the Communications Act "an early example of Congress endeavoring to use competition and marketplace forces as a regulatory tool," and would reassert that intention in the current radio market. Relying on its own studies and information as well as data in the *Notice*, NTIA finds that even small markets often have significant competition from both non-radio advertising media and from nearby radio stations. This competition is said to cause small market radio advertising to be self-limiting at the source. Further NTIA discusses commercial "clutter," which is discussed in more detail below.

39. NTIA also suggests that as a matter of both administrative and constitutional law, the processing guidelines should be more closely aimed at articulated harms and should be based on findings supported by evidence. Citing recent Supreme Court decisions in the "commercial speech" area, it finds that radio advertising is constitutionally protected speech under the First Amendment, and suggests that the guidelines decrease both the amount of commercial information available to consumers, and the revenues available to broadcasters to support public service. As a matter of administrative law, it contends that although the processing guidelines are not a rule adopted pursuant to the rule making requirements of the Administrative Procedure Act and court decisions, they have the practical effect of such a rule and thus NTIA questions their continued validity.

40. Extensive reply comments by NTIA include more evidence and argument to the effect that the guidelines are "likely to be both unnecessary and anticompetitive." The anticompetitive idea, also raised by the National Black Media Coalition, and the joint

[39] This rule making was concluded with *Report and Order, Airing of Public Service Announcements by Broadcast Licensees*, BC Docket No. 78-251 (FCC 80-557), released October 27, 1980.

broadcaster comments filed by Dow, Lohnes and Albertson, *inter alia*, suggests that the guidelines artificially interfere with the efficiency of usual market forces. The limits are said to raise the price of each ad, limiting the type of sponsors who can afford radio, and increasing prices for some consumer products because of the inability of producers to take full advantage of the economies of scale.

41. Reacting to the volume of commenters concerned about excessive commercials after deregulation, NTIA in reply comments reasserts its conclusion that the guidelines are largely unnecessary because of existing competitive forces. It counters the charge that specific format stations have extensive "market power" within their format which might lead to commercial exploitation with arguments that such power is largely overestimated. First, although listeners may have limited choices with a specific format, sponsors who buy based on desirable demographics rather than formats have several alternative choices. This "cross format competition" is said to reduce advertising excesses as sponsors avoid stations with commercial "clutter." Second, format competition is not the sole determinant of listener preference, thus weakening the supposed "market power" of specific format stations. NTIA utilizes results of a survey conducted for Associated Press by Frank Magid Associates and cited in the *Notice*. The survey indicates that listener preference is based not only on format but also on other program characteristics such as habit, news coverage, announcers, network programming, etc., thereby significantly lessening presumed "market power" based on format.

42. Further, NTIA takes issue with a statement in the *Notice* and repeated by some other commenters that stations with monopoly power could engage in commercial excesses. NTIA states: "We disagree. Radio stations that enjoy 'market power,' to begin with, are most likely to be found in smaller or rural markets where the aggregate commercial base is typically too sparse to sustain any substantial increases in commercial time. Moreover, economic theory indicates that radio stations with 'monoply power' are at least as likely if not more likely to *restrict* commercial time than to increase it."

Summary

43. Commenters take widely divergent positions on the proposals to relax or eliminate the commercial time processing guidelines, but a substantial number say that some experimental changes likely would be of value. Broadcast industry commenters give near unanimous support for elimination of the guidelines, although many would retain them on a voluntary basis for use in comparative hearings for license renewal. Broadcasters highlight the regulatory burden of the guidelines as against their effectiveness, their continued legal validity, and the public interest values of elimination. Non-media organizations largely disfavor elimination of the guidelines. They are concerned that non-profit organizations would have fewer opportunities to use the medium to publicize their missions, fearing that an increase in commercials would displace PSAs, and that advertisers would have greater control over programming. Most media action organizations disapprove of the elimination of the commercial guidelines, often as an adjunct to broader objections to radio deregulation. However, several of these organizations think that experimental implementation might be of some value, especially for minority stations. Government commenters largely favor the preferred option of eliminating the guidelines, at least on an experimental basis, because they believe that competition more efficiently regulates the industry in this area.

Discussion of Major Issues Raised in Comments

The Economics of the Commercial Guidelines

44. The comments regarding the economic analysis and empirical research related to our proposal to remove the limits on advertising time fell into two major categories. One group of commenters provided additional empirical support for our proposal.[21] The second group of commenters criticized the empirical research of the FCC and others, or criticised the economic analysis.[22] this section provides both a summary and an analysis of those comments.

Empirical Support for Elimination

45. Briefly, our analysis of commercial time depends upon the interaction of the demand for advertising time by advertisers and the supply of time by broadcasters. The interaction of these forces determines both the price and quantity of time available for advertising. Our empirical analysis determined that the guideline is set above (*i.e.*, allows more minutes per hour of commercial time) that which the market suggests is the optimal quantity of advertising time. In fact, the overwhelming majority of broadcasters are considerably below the guideline during every hour of operation.[23] Three major commenters in this proceeding presented data which corroborates our findings.

46. NTIA performed a substantial econometric analysis of our data to isolate the most significant factors which determine the amount of commercial time.[24] NTIA suggests that one important limit on the amount of commercial time is advertising "clutter," a factor also considered in the "Discussion" section of this *Report and Order*.[25] As NTIA points out, the theoretical basis for the analysis of "clutter" is not well developed but empirical studies suggest that the phenomenon has an important impact on the amount of advertising aired by stations.[26]

47. The NTIA staff developed an economic model with which they examined structural factors that influence commercialization policy.[27] The most striking finding of their work was that audience share is not affected by varying levels of commercials within the range of commercial minutes found in their sample.[28] NTIA concludes from this that advertiser sensitivity to "clutter" is greater than that of audiences.[29] The reply comments filed by NTIA suggest two other possible structural factors. First, a Frank Magid Associates study of listener preferences showed a number of characteristics that influenced station selection.[30] The number of ads was not the most salient decisional factor for most listeners. Only for beautiful music format stations did commercial time rate as high as the second most important factor affecting the choice of station. Second, further econometric analysis by NTIA showed that stations broadcast more commercials during certain parts of the day and certain days of the week.[31] Drive time is the most popular time of day for both advertisers and audiences. The high level of commercialization during drive time suggests that broadcasters are merely extracting revenues when listeners have few alternatives and thus are less sensitive to the additional adverstising. It is important to note that drive time is when stations usually air the greatest amounts of informational programming, especially news, leading to the assumption by some that the extra commercials may help pay for the more expensive informational programming.[32]

48. The National Association of Broadcasters (NAB) submitted data on the amounts of advertising reported by stations that subscribe to the NAB code. The data

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[21] *See, e.g.*, Comments of the National Television and Information Administration, and the National Association of Broadcasters.

[22] *See, e.g.*, Comments of Citizens for Community Access, Eric Luskin, and Thomas David.

[23] Given that a guideline exists, it is likely that most broadcasters would keep their commercial time below what the guideline allows simply to serve as a buffer against the possibility of exceeding the guideline. However, it is extremely unlikely that the average station in each market (regardless of size and number of stations) would maintain a buffer of the magnitude reported in our study. Further, given that the risk of loss of a license because of overcommercialization is remote, there is little risk against which to buffer.

[24] *See*, Comments and Reply Comments of NTIA.

[25] Comments of NTIA, Appendix B, at 12–16. "Clutter" can be understood in two separate dimensions, the total amount of commercial time aired, and the concentration of adjacent commercials.

[26] *Id.*, at 13–16; and NTIA Reply Comments, Appendix B.

[27] NTIA Comments, Appendix B, at 16–31; and Reply Comments, Appendix A.

[28] The model they test specifies advertising minutes as the dependent variable with both audience share and various market structure variables as independent variables. The authors agree that there is also likely to be a "feedback" effect from advertising minutes to audience size since at some point people will probably stop listening if too much advertising relative to other programming is broadcast. Therefore, they develop a two equation model so that they can explicitly consider this effect. Using standard econometric techniques (two- and three-stage least squares estimations) they find the result reported *supra*. Since these equations are not reported we cannot make a complete analysis of their results and must take their findings as tentative. *See*, NTIA Comments, Appendix B, at 19 and 26.

[29] *Id.*, at 26. The point is that advertising messages lose their effectiveness due to the "clutter" effect before the audience becomes dissatisfied with the station.

[30] Reply Comments of NTIA, at 11–12. This, in fact, is the same study reported in the *Notice* at Table 17.

[31] *Id.*, Appendix A, n. 25, at 4.

[32] See the *Notice* at Tables 14 A & B, and 15 A–C.

show that average advertising time in all markets is well below the processing guideline. The NAB study is significant because it examined a much larger number of stations and markets than the Commission study. Their study confirms the finding of the Commission study that the advertising guidelines are set well above current radio practice. One possible source of bias in the NAB study must be considered. Subscribers to the NAB code may systematically provide less commercial time than noncode stations.[33] While this is possible, the extent to which code stations fell below the guideline amounts suggests that it is competition, not code enforcement, that most effectively regulates current levels of commercialization.

49. The Diocese of Cleveland supplied local data on commercialization practices for three renewal periods (1967–1976). The data were collected in only one market, but the Cleveland study is consistent with the findings of the broader FCC and NAB studies. Although the comment generally disfavored the proposals in the *Notice*, no specific allegation was made regarding abuse of the commercialization guideline. The data for the AM stations show a *declining* trend in the number of minutes per hour devoted to advertising time from 1967–1970 to 1973–76.[34] While the average amount of time devoted to advertising declined, stations occasionally exceeded the 18 minute per hour guideline.[35] The proportion of stations exceeding the guideline declined while the total number of such incidents increased.[36] For both the 1970–73 and 1973–76 periods the station exceeding the guideline most often was the station that also provided the most nonentertainment programming.[37] The data for FM stations show an increasing trend of advertising time over the 1967–1976 period. The level was still lower than for AM stations, however, and no instance was reported of an FM station exceeding the 18 minute guideline.[38]

[33] *See, e.g.*, Reply Comments of the Committee for Community Acess, at 29.

[34] The averages were 18.5% (11.1 minutes) for 1967–70, 16.3% (9.8 minutes) for 1970–73 and 15.3% (9.2 minutes) for 1973–76. This data was computed during the prime advertising time for each day of the composite weeks (6 AM to 6 PM).

[35] Of course, this is allowed 10% of the time as part of the guideline (up to 20 minutes).

[36]

	1967–70	1970–73	1973–76
Number of incidents of 18 minutes or more	17	57	40
Percent of stations experiencing incidents	57	46	15.4

[37]

	1970–73	1973–76
Nonentertainment programming (pct)	54	67.1
Number of incidents (6 AM–6PM)	18	30

Criticisms of Empirical Studies

50. There were several criticisms by commenters of the empirical work supporting removal of the guideline. Summarizing the data, both the FCC and the NAB found the average level of advertising well below the guideline. Further, advertising levels were lower for both large and small markets than for medium sized markets. The Committee for Community Access (CCA), examining the FCC and NAB data, found a negative relationship between the number of commercial minutes per hour and the number of stations in the market.[39] This, they report, is contradicted by the statistical analyses performed by NTIA.[40] This contradiction is more apparent than real, and on close examination it becomes understandable. NTIA utilized a more sophisticated statistical technique than the FCC or the NAB. Using multiple regression analysis, NTIA was able to isolate and simultaneously develop correlations between advertising time and a number of other relevant variables, and thus found relationships not otherwise discernable.

51. Beyond this apparent anomaly between the NTIA and FCC/NAB data is the question whether small market stations presently "overcommercialize." CCA points out that the median commercial levels for stations in large vs. small markets is that between less than 300 seconds per hour and between 300 and 500 seconds per hour.[41] In neither the small nor large markets do the stations even come close to the 18 minute per hour (1080 second) guideline.[42]

52. CCA also argues that the NAB data for Class C markets (those with 15,000–100,000 populations) show numerous stations approaching the 18 minute guideline.[43] Although some stations in this category have more commercials, their commercial loads still do not seem cause for great alarm. The NAB charts indicate that only 4.5 percent of all drive time and 2.5 percent of all nondrive time hours have ads in excess of the guidelines. Further, only 25.4 percent of drive time and 24.1 percent of nondrive time hours have between 15 and 18 minutes of commercials. Finally, 45.9 percent of drive time and 51.3 percent of nondrive time hours have 10 or fewer minutes per hour of commercials.[44]

53. Thomas David provides an argument, based on the possibility of broadcaster collusion, that the guidelines should not be removed. In essence, he argues that broadcasters without the guidelines will have additional ability to act as monopolists, *i.e.*, small groups acting as joint profit maximizing cartels. This could be accomplished, according to David, either by increasing price or by increasing output. There are several reasons to question this prediction. First, broadcasters can now increase output because they are operating so far below the guideline. Second, and more to the point, a monopolist will generally charge a higher price than a competitive firm; however, this can only be accomplished by restricting output, not by expanding it. Further, monopolies (or joint profit maximizing cartels) will generally operate at a level of output such that expanding output would reduce rather than increase profits.[45]

54. The possibility of small market overcommercialization was also addressed by Thomas David. David used two tables from a Commission agenda item predating establishment of the guidelines in an effort to show what might happen if they are removed. David argues that the data, from stations in small markets, show a pattern of "excessive" commercialization.[46] Without additional information regarding the circumstances surrounding the collection of the data it is difficult to assess their significance. In any event, the fact that some stations may have aired more than 18 minutes of commercials per hour before the institution of the guidelines does not prove that many or most stations would do so if the guidelines are now removed.[47]

Other Concerns

55. The record in this proceeding reveals two other major concerns of the commenters that must be considered in some detail here:

[38] The FM station averages were 6.3% (3.8 minutes) for 1967–70, 8.5% (5.1 minutes) for 1970–73 and 9.3% (5.8 minutes for 1973–76. Again, these numbers were calculated for the AM–6 PM time period and were averages acrosss the composite week.

[39] Reply comments of CCA, at 28–29.

[40] Comments of NTIA, Appendix at B, at 28 and Reply comments of NTIA, Appendix A, at 4. NTIA found that as the number of stations in the market increased so too did the number of commercial minutes, other things equal.

[41] Reply comments of CCA, at 29. These are estimates provided by CCA and reflect the relative size of the difference.

[42] CCA alleges that stations in "medium" sized markets do approach 18 minutes per hour (based upon the Alabama-Georgia data) and, as a result, require continued regulation. A weighted average, using the data found in Table 19 in the *Notice* (for markets having between 4 and 10 stations), was calculated for the markets in the medium size category and shows an average of 446 seconds per hour. This is clearly below the 1080 seconds per hour currently allowed. Further, in these markets few stations exceed the guideline and those that do, do so far less than 10% of the time (as is permitted under current guidelines).

[43] *Id.*, at 29–30.

[44] Comment of NAB, Appendix B, chart 5.

[45] In more technical terms, the cartel will be in the inelastic region of its demand function in equilibrium (equilibrium being where marginal revenue equals marginal cost and marginal cost is greater than zero). Any expansion in output in this region leads to a drop in price that results in a net loss of profits.

[46] *Id.*, at 5, 10 and 13. The tables come from something identified as Renewal Agenda Item No. 5, October 15, 1969.

[47] The data cited by David were drawn from a number of multiple station markets. To examine one station in a market without also examining the remaining stations does not allow us the opportunity to determine whether the cited stations are the norm or the exception.

(1) the possibility of increased advertiser control of programming, and (2) the charge that commercial concerns will take precedent over the public interest concerns of broadcasters to the detriment of many public service organizations. Although we share the concern of those that press these conclusions in this matter, our careful consideration of them leads us to question the nexus between the commercial guidelines and these projected consequences of their elimination. First, the commenters, contrary to our judgment above, assume that broadcasters will increase their advertising loads if we eliminate the guidelines. They conclude that this increased advertising will result in greater advertiser control over programming decisions and public service commitments. Second, we think these conclusions overestimate the power of the current guidelines. Third, if these problems do in fact arise, they would be more appropriately addressed through other regulations more directly and precisely suited to resolution of the particular problems. These general concepts are more specifically applied to the two problems below.

Advertiser Control of Programming

56. Several commenters, including especially churches, unions, and social, political and media action groups, suggested that without the guidelines advertisers would gain significant control over the operations of stations and would therefore become increasingly powerful in programming decisions. This idea was reinforced by the fact, discussed in the *Notice* and by several commenters, that broadcasting is largely an advertiser supported industry. Advertisers are the most direct source of broadcast revenues because they purchase advertising time. They do so largely on the basis of the presumed size and demographic characteristics of audiences. Similarly, several other commenters suggest that "commercially insignificant" audiences would be unserved or underserved if the guidelines were eliminated.

57. Although these are important concerns, we are not persuaded that elimination of our commercial guidelines will significantly affect them. At base, they are not connected as much to the question of *how much* commercial time should be allowed, as to the fundamental nature of commercial radio, *i.e.*, that it is supported almost exclusively by advertising revenues. Although we do not wish to deny the limitations and difficulties that the commercial character of the medium places on its use, that concern is not the subject of this rule making as proposed in the *Notice* and we are not here faced with compelling reasons to reject the basic attitude that we have held at least since the time of the *Great Lakes* decision.[48]

58. Another form of the argument is that commercial radio is endemically infused with the evil of advertising, and the Commission must insure that this evil does not entirely consume the public interest. From that perspective, the public interest is endangered by elimination of the guidelines because without them the evil would be unleashed to the detriment of the listening public. First, we are not convinced that advertising or advertisers are inherently bad. In fact, following the lead of the Supreme Court's recent "commercial speech" cases we would assert that much advertising has considerable value for the public as well as for advertisers. We do, of course, recognize that broadcasters can engage in commercial abuses, but our action here today leaves untouched our power to deal with advertising abuses. Instead our action recognizes that a certain amount of commercialization is not, by itself, sufficient to prove that a broadcaster is or is not fulfilling his public interest responsibility. A more flexible commercial policy should encourage broadcaster experimentation in this area, and the results may well benefit the public.

59. Second, we have no concrete evidence that eliminating the guidelines will substantially create the effects the commenters suggest, *i.e.*, increase the program power of advertisers to the detriment of the public interest. Although we think the tendency will be very limited, we expect that a few stations may increase their commercial loads beyond 16 minutes per hour. But there is no evidence in the record to suggest that even this would increase the programming power of advertisers or necessarily impair the public interest. The prevailing journalistic and programming ethic stresses the independence of the advertising and editorial departments of broadcast stations, and we have no evidence of a possible change in that ethic. Also untouched by this proceeding is the "long-standing bulwark of Commission policy" that "licensees have an affirmative, non-delegable duty to choose independently all programming for broadcast. . . ."[49]

60. Third, although we do not deny that the commercial nature of radio has some effects on programming content, we do not think those effects are necessarily bad. Some such effects may be deleterious to the public interest, as when a station for example decides to air or not a program out of concern not to offend an important advertiser, and we do not endorse programming judgments made on that basis. However, if elimination of the guideline has any effect in this situation, it may be to reduce the program power of any individual advertiser. In any case, we think that the majority of programming decisions are made out of deference to the program choices of audiences, not advertisers. This is not just because broadcasters are altruistic or because they fear sanctions from the Commission if they ignore public needs and desires in their programming. It's largely because the advertisers who indirectly support most programming are more often interested in *audiences* for their advertising than in the content of the programs. This is the apparent genius of our system of commercial broadcasting, and we find no evidence in this record to indicate that eliminating the processing guidelines will upset or even significantly change that system.

61. Perhaps the most troublesome aspect of this issue is that raised by those who fear that "commercially insignificant" audiences will be unserved or underserved by commercial broadcasting after elimination of the guidelines. But this seems to be an issue not related so much to the guidelines as to the fact that radio is a commercial medium.

62. Perhaps more important, persuasive evidence suggests that many groups presumed to be unattractive to advertisers are, indeed, economically significant. This is discussed in more detail in other sections of this Report, and need not be repeated here. Beyond that we are not convinced that whatever "commercially insignificant" groups that do exist are left totally unserved by existing broadcasts, nor that they will be so significantly underserved as to alter our decision here. These groups are, of course, served in a general and not insignificant way by programming not specifically geared for them but available because others are likely to buy the advertised products.[50] In addition, these audiences are often served by broadcasters mindful of their more general public interest responsibilities as radio licensees. We must, also, recognize that these groups are served in other ways, often outside of commercial radio, for example, by public radio, and by public and private service organizations. And to again return to the most persistent theme of this section, we have no evidence that this is a matter substantially affected by our present guidelines, nor that it would be altered by their elimination.

Public Service and PSAs

63. The final point to be raised here is the projected effect of eliminating the guidelines on those public service organizations that greatly rely on commercial radio to help get their message to the public. This appears to be both a general and a specific concern. The general concern is that broadcasters without the guidelines would become more concerned with their advertising revenues and less concerned with their public interest responsibilities. The specific concern is that the public service announcements (PSAs) greatly relied upon by these organizations would be eliminated or substantially decreased. Our response to the general concern has already been adequately covered in the sections above where we deal with programming content. Most importantly, the evidence does not demonstrate a significant nexus between the guideline and the projected effect for us to grant it decisional significance. The PSA matter, however, requires additional discussion, if for

[48] Although noncommercial and public radio stations now provide some radio service, the following statement from the *Great Lakes* case continues to have considerable validity: "If a rule against advertising were enforced, the public would be deprived of millions of dollars worth of programs. . . . Advertising must be accepted for the present as the sole means of support for broadcasting, and regulation must be relied upon to prevent the abuse and overuse of the privilege." 3 FRC Ann. Rep. 32, 35 (1929).

[49] *Review of Commission Rules and Regulatory Policies Concerning Network Broadcasting by Standard (AM) and FM Broadcast Stations*, 63 F.C.C. 2d 674, 690 (1977). *See also, Agreements Between Broadcast Licensees and Public*, 57 F.C.C. 2d 42 (1975).

[50] Also, as noted in Appendix D, some groups thought by commenters to be economically insignificant are of great, and ever increasing, economic significance

no other reason than the large quantity of comment it precipitated.

64. As noted in an earlier section of this item, a great deal of the comments mistakenly assumed that PSAs had long been required of every radio broadcaster, and that this proceeding would eliminate that requirement to the detriment of those organizations and audiences that depend upon them. The fact is that PSAs have never been required by the Commission, and until September 26, 1980 individual stations were given little public service recognition for the airing of them.[51] This very recent PSA item was passed by the Commission partly out of concern that its previous policy, the one under which licensees operated during the pendency of this proceeding, may have *discouraged* PSAs rather than encouraged them.

65. The comments, data, and conclusions of that rule making are relevant here. In the *Notice* concerning the PSA inquiry the Commission asked the public to answer several questions about PSAs and although the research submitted was not uniform or complete, it allowed a general summary of some important aspects of the issue. Most relevant in this proceeding are those data related to the number and the timing of PSAs. These data indicated that while the Commission was generally neutral to station airings of PSAs: (1) stations averaged more than two hours per week, or about 1 to 1½ minutes per hour of PSAs; (2) the usual PSA ran approximately 30 seconds; and (3) PSAs seemed to be evenly distributed throughout the broadcast day, *i.e.*, they were not generally clustered in the "graveyard" hours nor during prime audience periods.[52] Inasmuch as the public and the Commission favors PSAs the Commission concluded that such performance was satisfactory and that no specific PSA requirement was necessary or desirable, deferring instead to the broad discretion of licensees in programming matters, and recognizing that such "decisions depend on the community to be served and each licensee's individual situation."[53]

66. Against this background of favorable past performance, we view with some skepticism charges that PSAs will significantly decline or disappear without the commercial processing guidelines. Broadcasters apparently use PSAs for their own reasons. Conversely stated, Broadcasters apparently do not air PSAs because the Commission specifically requires them to do so, nor because of the commercial time guidelines. Therefore, we are not convinced that absent such direct regulations, broadcasters' reasons for airing PSAs will substantially change.

67. One aspect of the PSA issue that must be addressed was highlighted most forcefully in the reply comments of Public Media Center (PMC) and the testimony of Mr. Andrew Schwartzman of Media Access Project (MAP) at the panel discussion on September 16, 1980. Mr. Schwartzman said: "Public service announcements are to the listener essentially indistinguishable from commercials"[54] To the extent this assertion is true, it seems reasonable to assume that PSAs are part of the commercial "clutter" important to audiences and advertisers. MAP and others also assumed both that stations will substantially increase their commercial loads absent the guidelines, and that to do so without increasing their "clutter," stations will also eliminate PSAs.

68. This projected chain of events seems somewhat plausible, given the premises upon which it is based. However, it is dependent on at least three independent and rather speculative assumptions, all of which must be correct to bring about the demise of PSAs. These assumptions are: (1) that PSA's are the functional equivalent of advertising for audiences and advertisers, (2) that broadcasters will substantially increase commercial loads, and (3) that broadcasters will be willing to decrease or eliminate their PSAs. Although the first of these assumptions may be true, we are without hard evidence to substantiate it, and the second and third each seem highly unlikely. We have already seen that most broadcasters operate significantly below our commercial guidelines most of the time, and economic factors suggests that they would not be able to greatly increase their commercial minutes absent the current guideline. If, as we project, commercial loads do not change significantly as a result of this rule making, then there would be no reason under this analysis to expect any change in the amount of PSAs.

69. Further, even if the first two assumptions of these commenters prove correct, we are not sure that broadcasters would be willing to decrease their airing of PSAs. As we said above, broadcasters have aired a significant amount of PSAs in the past for their own reasons, not because we have specifically required it. Whatever has prompted broadcasters to air PSAs in the past is apparently untouched by this rule making. In addition the new PSA rule making extensively referred to above was designed to give "greater credit" to those using PSAs and thus encourage their appropriate use. For now, we decline to engage in the cumulative speculation urged upon us and to negatively prejudge the industry in an area where it has provided a record of substantial past performance. As we said in the recent PSA report: "Where we can achieve a goal without regulation, the public interest is well served. . . . Thus, the public receives a substantial benefit at a lower regulatory cost, while the broadcaster is enabled to serve his particular community as it requires and not himself be required to meet an artificial standard of performance." [55]

Constitutional Policy

70. One persuasive source of our decision to limit our intervention in the advertising marketplace is the constitutional policy of the United States Supreme Court, revealed in several recent decisions, to limit advertising regulation out of respect for the First Amendment value of "commercial speech." In an essentially unbroken line of cases beginning in 1974, the Court has struck down several state regulations that either limited or banned advertising related to specific products, services, or subject matter. Although none of these cases dealt with the broadcast media, we think that the constitutional policy might provide a sufficient independent ground for our decision.

71. It is important to note from the onset that the traditional policy of the Supreme Court from the time of *Valentine* v. *Chrestensen*, 316 U.S. 52 (1942), was that "purely commercial speech," like obscenity, was outside the ambit of the First Amendment. Later cases ostensibly followed that idea, but generally narrowed its application through various modifications until the entire concept was apparently repudiated in *Virginia Pharmacy Board* v. *Virginia Citizens Consumer Council*, 425 U.S. 248 (1976). The basic thrust of this revision is summarized in *Bigelow* v. *Virginia*, 421 U.S. 809 (1975) which suggests that although not all regulation of advertising will be struck, neither will it be summarily upheld against a First Amendment challenge: "Regardless of the particular label a court may not escape the task of assessing the First Amendment interest at stake and weighing it against the public interest allegedly served by the regulation."[56] Further, the Court observed that the "relationship of speech to the marketplace of products or of services does not make it valueless in the marketplace of ideas."[57]

72. It is important to stress that these cases do not decide the instant issue, nor are they sufficiently similiar for us to assume that the present guidelines would be invalidated by the Supreme Court as a matter of constitutional law and policy. Several distinguishing features separate them from the cases already decided, at least three of which deserve mention here. First, several of the cases included the particularly sensitive issue of "content based" regulation of communication in that they concerned specified types of ideas,[58] products,[59] or services.[60] Second, the regulations often had a rather comprehensive effect, making it difficult for the general public to obtain the related information. As such, they could be construed so as to effect total suppression which has been traditionally disfavored.

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[51] *Report and Order Re: Petition to Institute a Notice of Inquiry and Proposed Rule Making on the Airing of Public Service Announcements by Broadcast Licensees*, (hereinafter referred to as "PSA *Report and Order*"), BC Docket No. 78-251, RM-2712, (FCC 80-557), released October 27, 1980.

[52] *Ibid.*, at paragraph 8.

[53] *Ibid.*, at paragraph 42.

[54] Transcript, Deregulation Panel Discussion, Vol. 2, December 16, 1980, p. 197.

[55] PSA *Report and Order*, *supra*, at paragraph 51.

[56] 421 U.S. 809, 814 (1975).

[57] *Id.*, at 825-826.

[58] *Consolidated Edison Company of New York, Inc.* v. *Public Service Commission of New York*, ——U.S.—— (1980), 65 L. Ed 2d 319, decided June 20, 1980 (invalidating a utility commission order barring bill inserts expressing a utility's opinion or viewpoint on controversial issues of public policy).

[59] *Virginia Pharmacy Board* v. *Virginia Citizens Consumer Council*, 425 U.S. 248 (1976) (invalidating a state ban on advertising prices of prescription drugs).

[60] *Cary* v. *Population Services, Int'l.*, 431 U.S. 679 (1977) (invalidating a conviction for advertising the availability of abortion services), and *Bates* v. *States Bar of Arizona*, 433 U.S. 350 (1977) (invalidating a total ban on advertising of attorney services).

rather than reasonable regulation.[61] Third, the cases did not deal specifically with broadcasting, nor with the special problems related to a federally licensed industry with a positive public interest obligation.[62] In fact, the "special problems of the electronic broadcast media" were often specifically deferred.[63]

73. The policy of the cases, however, clearly favors the free flow of commercial information. The Virginia pharmacy decision striking bans on drug price advertising is perhaps the most instructive in that it delineates the First Amendment value of such advertising from the view of buyers, sellers, and the general public welfare. There, for example, the Court said that the consumer's interest in the free flow of commercial information may be "as keen, if not keener by far, than his interest in the day's most urgent political debate,"[64] and found the facts before it especially compelling:

Those whom the suppression of prescription drug price information hits the hardest are the poor, the sick and particularly the aged. A disproportionate amount of their income tends to be spent on prescription drugs; yet they are the least able to learn, by shopping from pharmacist to pharmacist, where their scarce dollars are best spent. When drug prices vary as strikingly as they do, information as to who is charging what becomes more than a convenience. It could mean the alleviation of physical pain or the enjoyment of basic necessities.[65]

74. Still the Court appeared to think that the most important aspect was the general societal advantage of unrestricted commercial information and refused to recognize a distinction between publically "interesting" and "important" ads. Instead, the Court found that the realities of the marketplace pervaded the question:

Advertising, however tasteless and excessive it sometimes may seem, is nonetheless dissemination of information as to who is producing and selling what product, for what reason, and at what price. So long as we preserve a predominantly free enterprise economy, the allocation of our resources in large measure will be made through numerous private economic decisions. It is a matter of public interest that those decisions, in the aggregate, be intelligent and well informed. To this end, the free flow of information is indispensible.[66]

The Supreme Court then considered the justifications proffered in support of the Virginia Law, and concluded that not all were without merit. However, the Court said that on close inspection "the State's protectiveness of its citizens rests in a large measure on the advantage of their being kept in ignorance."[67] The Court retorted:

There is, of course, an alternative to this highly paternalistic approach. That alternative is to assume that this information is not in itself harmful, that people will perceive their own best interests if only they are well enough informed, and that the best means to that end is to open the channels of communication rather than to close them."[68]

75. Against this background then it is useful to consider the Supreme Court "tests" used to determine whether or not a specific rule violates the Constitution. Clearly, not all regulation of advertising is unconstitutional. In a very recent decision the Court measured the propriety of a state ban on certain advertising by public utilities against three questions: "We must determine whether the prohibition is (i) a reasonable time, place or manner restriction, (ii) a permissible subject-matter regulation, or (iii) a narrowly tailored means of serving a compelling state interest."[69] In another case decided the same day, the Court said that a four part analysis had developed in commercial speech cases:

At the outset, we must determine whether the expression is protected by the First Amendment. For commercial speech to come within that provision, it at least must concern lawful activity and not be misleading. Next, we ask whether the asserted governmental interest is substantial. If both inquiries yield positive answers, we must determine whether the regulation directly advances the governmental interest asserted, and whether it is not more extensive than is necessary to serve that interest.[70]

76. Assuming *arguendo* that broadcast advertising would be extended First Amendment protection,[71] and the absence of situations created by false and misleading ads,[72] or those fostering illegal activity,[73] the first part of each formula is easily applied to our guidelines. It seems clear that the guidelines serve a substantial government interest, and that they are reasonable time, place and manner restrictions, and thus would likely be declared constitutional if challenged.[74]

77. As a matter of public policy, however, we think that the second parts of the tests lend great weight to our decision to eliminate the processing guidelines. These parts of the tests suggest that regulations should directly advance the relevant government interest, and that they be narrowly tailored or no more extensive than necessary to achieve the intended government policy. As discussed in considerable detail in the preceding sections of this discussion, the data from the record of this proceeding strongly suggest that the guidelines are no longer necessary. The commercial guidelines are not the primary reasons why broadcasters now limit their commercial loads, and eliminating them may have no substantial effect on broadcaster performance in this area. They appear more extensive than necessary to achieve our interest in curbing advertising excesses. As such, it seems that we have taken the most appropriate course today when we eschew broad advertising guidelines, and place our reliance on marketplace forces unless or until there is convincing evidence of their breakdown either locally or generally. In the future our ability to curb advertising excesses through the development of carefully tailored rules designed to curb specific types of abuses should greatly further the constitutional policy set by the Supreme Court in the "commercial speech" cases, as well as further our own administrative policies.

Appendix H.—Program Logs

History

1. Comprehensive program logs similar to those kept today have been required since the beginning of radio regulation but the official documents contain very little discussion of their regulatory purpose or effect. The first program logging rule was announced on February 16, 1931, and required all broadcasters to maintain both program and operating logs. The program logs were required to contain:

(a) An entry of all station and all call announcements and the time made;

(b) An entry describing each program broadcast, with the time beginning and ending. If phonograph records or electrical transcription are used, that fact should be noted.[1]

In 1934, the FRC republished its procedural rules and first codified its substantive rules. The logging rules became part of Section 172 and contained the essential elements of the present rules. Although the previous provisions were largely unchanged, the new version contained two additions: (1) the program descriptions were to be entered by categories "such as 'music,' 'drama,' 'speech,' etc." and (2) speeches by political candidates were to be specifically entered as such

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[61] *See, Lovell* v. *Griffin*, 303 U.S. 44 (1938).

[62] However, several commercial speech decisions have involved enterprises subject to extensive state regulation. See, *e.g., Friedman* v. *Rogers*, 440 U.S. 1, 4–5 (1979). *Bates* v. *Arizona State Bar*., 433 U.S. 350 (1977), *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748 (1976), and *Central Hudson Gas* v. *Public Service Commission of New York*, ——U.S.—— (1980), 65 L. Ed 2 341.

[63] *See, e.g., Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 773 (1976). *See also, Warner-Lambert* v. *Federal Trade Commission*, 562 F.2d 749 (D.C. 1977), 2 Med. L. Rptr. 2303.

[64] *Id.*, at 763.

[65] *Id.*

[66] *Id.*, at 765.

[67] *Id.*, at 769.

[68] *Id.*

[69] *Consolidated Edison Company of New York, Inc.* v. *Public Service Commission of New York*, —— U.S. —— (1980), 65 L Ed. 2d 319 326 (1980).

[70] *Central Hudson Gas and Electric Corporation* v. *Public Service Commission of New York*, —— U.S. —— (1980), 65 L Ed. 2d 341 351 (1980).

[71] *But See*, notes 58 to 63, *supra*, and accompanying text.

[72] *See e.g., Federal Trade Commission* v. *Colgate-Palmolive Co.*, 380 U.S. 374 (1965).

[73] *See e.g., Pittsburgh Press Co.* v. *Pittsburg Commission on Human Relations*, 413 U.S. 376 (1973).

[74] Although they predate the most important "commercial speech" cases, the Supreme Court decisions indicate that two prominent broadcast advertising cases survive. The cases, are *Banzhaf* v. *Federal Communications Commission*, 405 F 2d 1082, (D.C. 1968), and *Capital Broadcasting Company* v. *Mitchell*, 333 F. Supp. 582 (D.C. 1971), *affirmed sub. nom., Capital Broadcasting Company* v. *Acting Attorney General*, 405 U.S. 100 (1972).

[1] *General Order No. 106*, Fifth Annual Report of the Federal Radio Commission for the Fiscal Year 1931, p. 96. No explanatory statement accompanies the *Order*. The only hint of the reason for the requirement comes from an earlier *Order* wherein the FRC expressed disapproval of station use of recorded music rather than live music. In that earlier *Order* the FRC allowed recorded music but required stations to expressly acknowledge each use on the air.

together with the name and political affiliation of the candidate.[2]

Summary of Comments

2. The Commission's proposal to eliminate program log keeping requirements for commercial radio stations did not generate a wide range of opinion, argument or analysis. Most commenters addressing this issue appeared to be of either the general opinion that logs are unnecessary (but that records would continue to be kept in some form as a business decision) or that mandatory program logs of some type are essential to public and Commission supervision of station operation. While some comments spoke to what may be thought of as more tangential issues, the above two positions generally represent the tenor of the commenters filed in this regard.

3. Much criticism of our present logging requirements is expressed in the comments, with broadcasters characterizing them as unduly burdensome and some citizens' groups complaining of the tedious and voluminous nature of the information compiled. Where broadcasters generally favor our proposed elimination of the requirements, many others urge that records be mandated as a means of monitoring station performance, assessing compliance with such programming and commercial limitations as might be retained, and evaluating the effects of any deregulation measures adopted. To this end, several comments propose simplified logs covering only non-entertainment and commercial matter or automatically kept logs which would eliminate the paperwork burden. While specific formats for logs were not as a rule suggested, one commenter, Stewart M. Hover, contends that uniform records are essential for station-by-station comparison. Another, Michael Carnes, urges that we require logs but only require their retention for two years, after which they would be given to interested parties such as community groups.

4. Many broadcast commenters cite the results of a General Accounting Office study that claims an annual regulatory burden (due to logging) of 18,000,000 hours and a cost per station of $650–$1,200 depending upon the wage rate used to compute the dollar cost.[3] Four individual stations submitted estimated costs of from $1,562 to $7,500.[4] Finally, one commenter indicated that the logging requirement utilized over 8,700 pieces of paper for one year;[5] while another commenter claimed that 50% of the time both the station director and a secretary was devoted to minding the required logs.

5. In addition to the elimination of logging requirements, we proposed as our preferred option that licensees make available for public inspection such records as they voluntarily maintain. Commenting licensees uniformly oppose this proposal. Good business practice, they contend, requires good records, making logs of some sort necessary for all station operators. Voluntarily kept records are likely to contain billing and other financial data and, they argue, the confidentiality of such data would be compromised by public disclosure.

6. With respect to the disclosure of non-confidential information, some broadcasters report little or no use of present logs while others recount incidents of logs supporting "harassing" petitions to deny renewal applications. Non-licensee commenters, in contrast, tend to view public dislosure as essential to effective regulation, permitting local groups to assess station performance. Off-the-air monitoring, suggested by some broadcasters as a substitute for publicly available logs, is dismissed by many non-licensees as impractical, costly, and imprecise, forcing reliance on recollection rather than on a written record.

Discussion

7. The apparent value of program logs is their use to monitor the program performance of stations. They are used by the public to support complaints to broadcasters, and by the Commission to investigate alleged violations of Commission rules and to make other determinations in the licensing process. The Commission has used the logs to insure compliance with several of its rules, most importantly with the quantitative guidelines for nonentertainment and commerical programs. Several commenters suggested that, even if the guidelines were eliminated in these two areas, the programming logging requirement should remain to allow the public and the Commission to measure the effects of these rule changes.

8. Although we agree that some monitoring may be useful, we are not convinced that the present logs are the most effective and efficient mechanism for several reasons. First, the present program logs are far more comprehensive than is necessary for most monitoring of programming and thus impose an expense that is difficult to justify. Second, their format and detail make them very difficult for the public and the Commission to use. Perhaps most important, the principal information obtainable from logs, by their very nature, relates to quantity. Inasmuch as this rule making signifies our policy decision to allow audiences through the marketplace to more directly determine the appropriate quantity of such programming, our continued program logging requirement becomes largely irrelevant.

9. Beyond the nonentertainment and commercial guidelines where quantity is the essence of the Broadcast Bureau's delegated authority, the Commission has used the logs as indicia of compliance with two other types of program requirements: (1) the specific announcement requirement of the Emergency Broadcast System (EBS), and (2) the more general program requirements such as those related to political broadcasting and the Fairness Doctrine. The record in this proceeding leads us to the conclusion that program logs are not necessarily the most efficient way to monitor station compliance with these program obligations.

10. As we indicated in the *Notice*, the EBS announcements may be best suited to a logging requirement, and can be kept in the operating logs without a significant impact on the present system.[6] The program logs are less useful in monitoring compliance with the more general program requirements, such as Fairness Doctrine. Specifying the date, time, and duration of programs, the logs yield little useful data on the public interest value of listed programs. The comments of the National Black Media Coalition (NBMC) may best represent those who have used the logs to monitor the program performance of stations. Asserting at the onset that some means of programming monitoring is necessary, NBMC said: "We agree, however, with those who point out that much of the material which must be logged is worthless to groups seeking to evaluate and improve the media. In fact, NBMC has often been at a loss to explain to groups monitoring program logs how to decipher them."[7]

11. Elimination of the logs will not significantly change our current public interest oversight process. The substance of a Fairness Doctrine complaint, for example, does not require complainants to present a comprehensive list of all programming potentially relevant to each complaint, even though such a requirement might not have been unreasonable given the past public availability of the logs. Instead, complainants must, *inter alia*, state "the basis for the claim that the station presented only one side of the question."[8] This does not require that complainants constantly monitor the station's programs, but rather that they state their reasons for the compliant, and show that their knowledge of the station's programming is sufficiently extensive to provide a substantial basis for the complaint.[9] Although this system does require some diligence, it provides a reasonable avenue for lodging well-founded complaints, and gives the Commission and broadcasters some protection against unwarranted and capricious complaints.

Appendix J*.—Changes to Application Forms

1. Given our resolution of the non-entertainment guideline, ascertainment, and commercial guideline issues renewal applicants need no longer answer the following questions on FCC Form 303–R, the Application for Renewal of License for Commercial AM or FM Radio Broadcast Stations: 11, 12, 14, 15, 16, 17, 18, and 19. Until new forms are available, applicants should consider question 13 to read:

Has the applicant placed in the public inspection file at the appropriate times its annual list of those *issues* which, in the

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[2] *Federal Radio Commission: Rules and Regulations*, § 172(A), (1934).

[3] *See*, "Federal Paperwork: Its Impact on Small Business," General Accounting Office, November 17, 1978, p. 43.

[4] *See*, Comment of WTMT, at 3 ($1,562); Comment of WKBR, at 2 ($3,000); Comment WWTR, at 3 ($6,500); and Comment of WPLM, at 2 ($7,500).

[5] Comment of KFIN, at 1.

[6] Radio licensees now have the option of logging EBS announcements in either the program or the operating logs. See Sections 73.1800(b)(5) and 73.1820(a)(1)(iv).

[7] Comments of the National Black Media Coalition, p. 17–18.

[8] *See, In the Matter of The Handling of Public Issues Under the Fairness Doctrine and the Public Interest Standards of the Communications Act*, 48 F.C.C. 2d, 17–21 (1974).

[9] *Ibid.*, at 19.

*No "Appendix-I" was included to avoid confusion with Roman numeral 'I'.

applicant's judgment, warranted treatment by station and typical and illustrative programming in response thereto?

We are not unmindful that we also currently have under consideration a so-called "postcard" renewal procedure (BC Docket No. 80-253). The changes in Commission regulations being made in this proceeding will be taken into account in any form that might be adopted as a result of that proceeding.

2. Other FCC Forms must also be amended to reflect our determination in this proceeding. These are FCC Forms 301 ("Application for Authority to Construct a New Broadcast Station or Make Changes in an Existing Broadcast Station"), 314 ("Application for Consent to Assignment of Broadcast Station Construction Permit or License"), and 315 ("Application for Consent to Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License").

3. In FCC Form 301, the principal changes will have to be made to Section IV-A. In that Section, Parts I ("Ascertainment of Community Needs"), II ("Past Programming"), III ("Proposed Programming"), IV ("Past Commercial Practices") and V ("Proposed Commercial Practices") will be deleted in their entirety. A new Part I (entitled "Proposed Programming") will be added instructing the applicant as follows:

Attach an Exhibit (No.) briefly describing your planned program service in narrative form.

Applicants will thereby be committed to a programming proposal so that, should there be material differences, a determination can be made as to the designation of a comparative programming issue. In the portion of Section IV-A currently entitled "Instructions, General Information and Definitions for AM-FM Broadcast Application," the following modifications will be necessary:

(a) Instruction 1 will be amended to delete the words "Ascertainment of Community Needs (Part I)", "Proposed Commercial Practices (Part V)" and the words "Proposed Programming (Part III)" will be amended to read, "Proposed Programming (Part I)";

(b) Instruction 2 will be amended to read, in pertinent part, ". . . unless there is proposed *an increase of* facilities...." (new portion underlined)";

(c) Instruction 3(b) will be amended to delete the words, "or commercial practices." The portion of this instruction concerning program formats may be revised depending upon the resolution by the Supreme Court of the case, *Federal Communications Commission* v. *WNCN Listeners Guild*, Case No. 79-824;

(d) Definitions 9 ("commercial matter") and 12 ("Composite Week") will be deleted; and

Finally, "Attachment B" will be eliminated from Section IV-A.

4. In FCC Forms 314 and 315, too, the principal changes will occur in Section IV-A. In the portion entitled "Instructions, General Information and Definitions for AM-FM Broadcast Application," the following changes will have to be made:

(a) The title of the Section will be amended to read, "Instructions and General Information for AM-FM Broadcast Application";

(b) Instructions 2, 3(c), 4, 6 and the Definitions will be eliminated; and

(c) Instruction 1 will be modified to delete the words "Ascertainment of Community Needs (Part I), Proposed Programming (Part III), Proposed Commercial Practices (Part V)."

Additionally, Section IV, Parts I ("Ascertainment of Community Needs"), II ("Past Programming") and III ("Proposed Programming"), Part IV ("Past Commercial Practices") and Part V ("Proposed Commercial Practices") will be deleted in their entirety. However, a new Part I will be added, entitled "Proposed Programming," consisting of the following:

Attach an Exhibit (No.) briefly describing the (assignee's) (transferee's) planned program service in narrative form.

Additionally, a new Part II will be added, entitled "Program Format(s)," and will consist of the following instruction:

Attach an Exhibit (No.) signed by the applicants setting forth a description of the station's past and proposed program format(s). The description of the station's past format should briefly describe the station's format(s) during the past 12 months.

This latter requirement is being retained pending the Supreme Court's determination in the case *Federal Communications Commission* v. *WNCH Listeners Guild, supra*. In the event that the case is determined in the Commission's favor, steps will be taken to amend this part of Section IV-A, as well. Additionally, "Attachment B" will be deleted from Section IV-A. Finally, with regard to Forms 314 and 315, we are eliminating the requirement for the transferor, or assignor as the case may be, to sign the application as currently required in Part VII, "Other Matters and Certification." The signature of transferor or assignor will still be required at other places in the relevant applications.

January 14, 1981.

Statement of Charles D. Ferris, Chairman

Re: Radio Deregulation

Today we have translated the rhetoric of "deregulation" into reality. No longer will radio broadcasters be required to follow empty governmentally required procedures and compile stacks of paperwork. Instead they will be able to follow their own path in determining how to serve their community's needs and interests in ways that reflect the realities of today's radio market.

I expect that active dialogue between radio stations and their communities will continue, without the rigidified "ascertainment" guidelines of the past. In today's dynamic radio market, a station's failure to listen to and address local interests and issues will result in economic penalties at least as severe as those the Commission could impose.

The elimination of commercial time limits will free the Commission from monitoring disc jockeys who add a few minutes of their own creativity to an ad agency's 30-second copy. And the elimination of program logging will let radio stations decide themselves how best to keep a record of their programs and commercials for their advertisers and internal purposes.

Finally, our decision to keep a legal obligation on each radio station to air issue-oriented programming to meet local community concerns guarantees against the unlikely absence of an economic market for news and local issue-oriented programming in some communities.

We cannot always be absolutely certain of each deregulatory step we take. But we can attempt to compile as full a record as possible before taking off past regulatory burdens. In this case we have given the public several opportunities for comment, held panel discussions, and debated the issue fully within our Commission. We have undertaken an exhaustive survey on how the radio marketplace functions in the area of commercialization and news and informational programming. I am pleased that we have finally acted, and acted in a responsible manner.

I look forward, years from now, to the ultimate vindication of this action, which can only come from the test of time as the marketplace functions with less government intrusion and more discretion given to radio stations to determine the way in which they will carry out their Communications Act obligations.

Statement by Commissioner James H. Quello

In re: Deregulation of Radio

I wholeheartedly support today's Commission action deregulating radio broadcasting. The Commission's withdrawal from the areas of ascertainment, commercial limits, non-entertainment programming quotas and program log-keeping represent a significant deregulatory foot in the door.

However, only legislation can provide real meaningful deregulation dealing with license terms, political broadcasting, Section 315, the Fairness Doctrine and government involvement in program formats. I hope the Commission in the future will make well-reasoned, appropriate recommendations to Congress.

Concurring Statement of Commissioner Abbott Washburn

Re: Radio Deregulation

It's been said: "Many a man in love with a dimple makes the mistake of marrying the whole girl." I hope the Commission's infatuation with the

deregulation dimple won't prevent us from looking for the imperfections and uncertainties in this *Report and Order* when it comes back to us on reconsideration. I had hoped that these improvements could have been made by releasing the document as a *Further Notice of Proposed Rulemaking*, instead of a *Report and Order*.

Non-Entertainment Programming Guidelines

I concur in the decision to eliminate the non-entertainment programming guidelines while retaining a generalized obligation to offer programming responsive to community issues. What do we mean by "a generalized obligation?" This is not at all clear from our document. Without a fuller explanation, I fear that the broadcasters will be unable to discern what it is the Commission expects of them. The result will be a good deal of uncertainty and differences of interpretation.

I also wonder how the general public will react to our conclusion that market forces can be relied upon to assure programming responsive to community needs. There are significant portions of a station's community that have little market power—such as the elderly, the urban poor, and the handicapped. How, then, will the marketplace assure these groups of programming responsive to their needs?

The *Order* states that we will leave it up to the individual broadcaster's judgment as to whether the needs of particular segments of the community will be served adequately by other radio stations, and, if so, the broadcaster then is free to focus on his own special audience and its special interests and needs. But suppose a group of citizens says his judgment is wrong and alleges that its particular needs are *not* being served in the community by any other station. How would the Commission respond?

In order to determine whether the broadcaster's judgment was reasonable, we would need to study that market as a whole and all of the stations licensed to it individually. Determining whether a particular group's needs in a particular marketplace environment are adequately addressed is a very difficult judgmental question—especially so for a regulatory body sitting in Washington.

I have to say that I'm troubled by our jettisoning the requirement for news broadcasts. *News and public affairs* have always been thought of as twins in American radio. Here we are requiring the coverage of issues of concern to the community—that is, public affairs—and yet there is no requirement for news, local or national. Along these lines, I am interested in hearing more in response to Commissioner Brown's suggestion that local issues be addressed by locally produced programming. After all, under the 1934 Act, localism is the heart of our broadcasting system.

Finally, I am concerned that even if a station faithfully serves its own special audience, the licensee may not necessarily have fulfilled its statutory obligation. The Act speaks of the broadcaster's responsibility to serve the "community of license" not its obligation to serve a particular listenership. Frequently, the two are very different things. While the Courts have permitted the Commission great latitude to interpret the Act, our authority does not extend to altering the community of license concept. We may be vulnerable on appeal by appearing to tamper with it.

For all of the above reasons, I am concurring in the non-entertainment programming portion of the document, and hope that it may be improved before becoming final. Inevitably, there will be Petitions for Reconsideration. These and the responsive comments will help make us more fully aware of the problems, so that we will be able to tighten and clarify the document. It is clear that honing is necessary in view of the fact that three Commissioners concurred and one dissented.

Commercial Guidelines

When we issued the *Notice of Proposed Rulemaking*, I dissented to eliminating the 18-minute limit for commercial matter. I said: "The public *expects* us to indicate reasonable limits beyond which a broadcaster is over-commercializing and imposing on the listening audience." The 18-minute standard is in the NAB Radio Code, and the fact that we have adopted it in our guidelines has, perhaps, encouraged adherence to the Code limit. Now that we are dropping it, what recourse do we have against flagrant abusers who grossly overcommercialize? Such broadcasters are very few in number, it is true, and as the document states, the marketplace will probably take care of most of them. But if it doesn't, and if we receive complaints, I'm told by the lawyers that we can deal with them through the authority of the statute, which requires the licensees operate in the public interest. So I am withdrawing my objection to the commercialization deregulation.

Ascertainment

The Commission's ascertainment process, in my view, has contributed to the development of a healthy dialogue between broadcasters and public groups and leaders at the local level. With today's action we are eliminating the formal ascertainment requirement. This does *not* eliminate the obligation of stations to remain open and accessible to their communities. That obligation remains as important as ever, but the mechanics are left to the parties directly involved, the station and the station's community.

Program Logs

I support eliminating our program log keeping requirement, since we have decided to eliminate the guidelines for non-entertainment programming and commercial practices.

Concurring Statement of Commissioner Joseph R. Fogarty

Re: Deregulation of Radio—Report and Order

I. Introduction

I concur in this Report and Order not because it "deregulates" radio—it does not—but because it rationally refines the public interest obligations of radio station licensees in light of the contemporary reality of the radio marketplace. That reality, as embodied in the extensive record in this proceeding, establishes a compelling *prima facie* case for the proposition that less regulation and more reliance on radio market forces will continue to meet the public interest goals and objectives which are this Commission's statutory responsibility to accomplish. As I stated at the outset of this proceeding, "We are under no mandate to prefer particular regulation simply for its own sake. Indeed, we have a continuing responsibility to reassess the costs and benefits of our regulatory means and ends to ensure that the public interest is being served in fact as well as in theory."[1] For the most part, I believe we have met that responsibility in this proceeding.

It is critical to distinguish and emphasize what this Report and Order does and, more importantly, what it does *not* do. First and foremost, it does *not* abandon the statutory public interest standard to the "marketplace," as originally proposed.[2] We have clearly and emphatically rejected this proposed abdication. This Report and Order does *not* excuse radio licensees from their public interest obligation to be sensitive and responsive to the needs and interests of their communities and to direct program service to those needs and interests. It does *not* allow radio

[1] Statement of Commissioner Joseph R. Fogarty, Concurring in Part; Dissenting in Part, 73 FCC 2d 606, 607 (1979).

[2] *Id.* at 610–11.

licensees to shift their individual public interest obligations to the "marketplace." It does *not* allow "100% commercial" stations. It does *not* abdicate this Commission's ultimate responsibility to pass on licensee performance in either the petition-to-deny or the comparative renewal process.

This Report and Order *does* rely on the multiplicity of radio outlets and marketplace forces in reducing the regulatory procedures imposed on licensees. It *does* eliminate the costly and burdensome formal ascertainment process and requirements while retaining the salutary ascertainment principle. It *does* eliminate the vague and erratically enforced "quantitative" standards of the "staff-processing" nonentertainment programming "guidelines," substituting an annual 5-to-10 issue/program listing as the bedrock public interest obligation. It *does* allow for individual licensee specialization in nonentertainment programming, but it does so under a standard that reasonably ensures that overall community needs and interests will still be met by the radio medium. It *does* rely on market forces to control and limit radio commercialization by eliminating the commercial "guidelines," but it does so based on a strong record indicating that such reliance is both reasonable and in the larger public interest.

I address each of these actions—and non-actions—in some detail in order that these judgments, distinctions, and expectations are made clear.

II. Elimination of the Commercial Time "Guidelines"

The record in this proceeding provides solid support for the thesis that economic forces in both small and large radio markets will naturally limit commercialization to levels acceptable to the public interest. Simply stated, a radio licensee who overindulges in commercials in going to lose his audience to another station. It must also be recognized that the Commission's involvement in commercial limitations has never enjoyed strong Congressional support.[3] Most significantly, the commercial "guidelines," which track the National Association of Broadcaster's Code, are not without antitrust policy problems in terms of their potential to limit artificially the quantity and hence maintain the price of radio advertising to the detriment of consumers and advertisers alike. The record further provides strong evidence that our important policies favoring increased minority ownership and program diversity may be impeded or retarded by these limitations.

On balance, I believe, therefore, that the commercial guidelines should be removed in favor of the more natural limitations of competitive forces working in the radio marketplace. While there may be significant short-run increases in commercialization as radio licensees test their markets, over the long run commercial patterns should stabilize at levels not unlike those presently obtaining. If contrary to these expectations of record excessive commercialization becomes the industry standard, the Commission will have the clear responsibility to re-enter the field with remedial regulation.

III. Elimination of the "Staff Processing Guidelines" on Amount of Non-Entertainment Programming and Preference for "Well-Balanced" Non-Entertainment Programming Service.

This Report and Order eliminates the "Staff-processing guidelines" with respect to raw amounts of nonentertainment programming broadcast by radio licensees. It also withdraws past Commission policy preferring a system of radio service in which each licensee must present "well-balanced" nonentertainment programming designed to serve, at least in part, the entire spectrum of its community's significant groups and their particular problems and interests. In its stead, this Report and Order constructs a new policy allowing individual licensee nonentertainment programming "specialization" in radio markets where the number of stations reasonably ensures that overall community problems and interests will be met. At the same time, we are specifying a "bedrock" licensee public interest obligation to offer programming responsive to community issues in the form of a requirement that each licensee annually list 5 to 10 issues to which responsive programming was directed, together with a description of how the licensee determined those issues were of importance to its community and how each issue was treated, including date, time, and duration of the program material addressed to the issue.

As I emphasized at the outset of this proceeding, the critical goal and policy of Commission regulation has been to ensure that broadcast stations serve as sources of information on the issues which confront our democracy and its citizenry.[4] It bears repeating here that "[W]e have allocated a very large share of the electromagnetic spectrum to broadcasting chiefly because of our belief that this medium can make a great contribution to an informed public opinion." [5]

While the matter is not entirely free from doubt, I believe that the rule and policy amendments effected by this Report and Order are faithful to and, indeed, may even strengthen the pursuit of this fundamental goal of an informed public opinion. Given the specification of an annual 5 to 10 issue/programming listing requirement *for each radio licensee*, I can concur in the elimination of the current nonentertainment programming quantitative quidelines on the theory and expectation that absent such guidelines significant amounts of informational material will continue to be available on radio. Here, it must be remembered that the existing staff-processing guidelines have been just that—"guidelines"—and were never intended, as binding standards or requirements. This reluctance to enforce a rigid adherence to quantitative standards has stemmed from the realization that "quantity" does not necessarily equal "quality," as well as from a genuine lack of confidence in the wisdom and validity of any minimal percentage standard that might be chosen by a government agency.[6]

I believe that as a substitute for quantitative "gudielines," the annual 5 to 10 issue list requirement strikes a better balance, in the context of contemporary radio, between the need for a public interest "bottom-line" and the equally important concept of deference to licensee discretion. The emphasis is ostensibly where it should be: on the licensee's actual program service product and its responsiveness to community problems, not on raw amounts of time, on artificial program categories, or on the formalistic process by which issues are selected. At the same time, however, as in all other areas of Commission broadcast policy, there is no substitute for licensee reasonableness and good faith. Compliance with the annual listing requirement should evidence that reasonable, good faith effort on the part of each radio broadcaster to contribute to an informed public opinion in his community. Ideally, that compliance should indicate a commitment to in-depth and not merely cursory treatment of the public issues selected for

[3] See, e.g., Report and Order, Appendix G, par. 4.

[4] Separate Statement of Commissioner Joseph R. Fogarty, 73 FCC 2d at 609–10.

[5] *Fairness Report*, 39 Fed. Reg. 26372, 26375, 48 FCC 2d 1, 10 (1974).

[6] See *Formulation of Policies Relating to the Broadcast Renewal Applicant* (Docket 19154) Separate Statement of Commissioners Benjamin L. Hooks and Joseph R. Fogarty, 66 FCC 2d 433, 435–36 (1977).

coverage. This obligation, together with Fairness Doctrine compliance, is now the *"sine qua non"* for radio license renewal.

I believe that the record evidence in this proceeding indicates that most radio licensees will honor this responsibility and commitment and will not abuse their enhanced discretion.. However, I also believe that a word of gentle but clear warning is appropriate. While this Report and Order emphasizes that the Commission's review will no longer focus on the mere *amount* of nonentertainment programming broadcast by the radio licensee, it should be obvious that a licensee cannot comply with its continuing issue programming obligation by doing little or nothing. In this regard, I agree with the Report and Order that "A station with good programs addressing public issues and aired during high listenership times but amounting to only 3% of its weekly programming may be doing a superior job to a station airing 6% nonentertainment programming little of which deals in a meaningful fashion with public issues or which is aired when the audience is small." [7] But, it should be equally plain that a station purporting to meet its program service obligation by addressing only one or two 30-second PSAs a month to five issues over the course of a year will be doing an *inferior* job. The point I wish to emphasize here is that while we are not going to be concerned with quantity as such, if radio licensees regard their increased discretion as an invitation to see how low they can go, then those licensees will inevitably lead the Commission back into the "numbers game" which we have sought to avoid. This point is underscored by the clear statement in the Report and Order that the nonentertainment programming obligation applies to each individual licensee and cannot be shifted to the "marketplace." I trust that forewarned is forearmed.

I also share some of the concerns about "local" programming expressed by Commissioner Brown in his Dissenting Statement. I agree that both our allocation principles and the public interest standard emphasize that we expect licensees to operate their stations as local outlets for local expression of views. However, it also should be observed that the Commission has never established a rigid requirement that local community problems and interests can only be met by locally originated programming. Clearly, local issues can be adressed—and often in a superior fashion—by programming which is not indigenously produced. Today, it is a truism that national problems are local problems, and often vice versa. PSAs produced by national public service organizations can respond effectively to issues of local concern, and the services of national news organizations can contribute effectively to local informational needs.

More fundamentally, I do not agree with the characterization that this Report and Order permits radio licensees to rely entirely on outside sources for their annual 5 to 10 issue informational programming. The pertinent language of the Report and Order warrants full reiteration here:

We continue to be concerned that stations serve their local communities. This might often mean that stations use locally produced programs to meet their community issue obligation. This does not preclude, however, the use of other programs which address issues of importance to the community.[8]

While perhaps not a model of precision and clarity, I think this language expresses the principle fairly well: Radio broadcasters have full flexibility to use programming from any and all sources to satisfy their community issue programming obligation, but that discretion must be exercised consistent with their continuing responsibility to serve as local outlets for local expression. FCC regulation, like the law in general, is not insensitive to matters of degree, and radio licensees should be expected to share that sensitivity. Any licensee who relies exclusively on non-local programming to satisfy his community issue obligation should be prepared to demonstrate the reasonableness of that decision.

The critical core of this Report and Order is the decision to modify the Commission's long-standing policy requiring each licensee to provide "well-balanced" nonentertainment programming designed to serve the broad cross-section of its community's constituent groups and their particular problems, needs, and interests. This Report and Order partially modifies that policy to allow nonentertainment programming specialization by licensees in large radio markets where the number of stations and the diversity of their informational programming services gives assurance that overall community problems and interests will be met by overall market performance. Thus, if a radio licensee can demonstrate that some other station(s) can be reasonably relied upon to meet the informational needs and interests of a particular constituent element of his community, that licensee may focus his nonentertainment programming efforts on other audience needs and interests.

Leaving aside for the moment the question of what constitutes "reasonable reliance," the fundamental issue presented is whether allowing such individual licensee nonentertainment programming specialization is in the public interest. For me, this is the most difficult matter decided by the Commission in this proceeding for there are serious and substantial arguments on each side of the issue. On balance, and not without certain hesitation, I concur in the Commission's decision to permit nonentertainment program service specialization.

Against this decision, it may be argued that allowing specialization will lead to licensees ignoring significant community groups and interests with tacit FCC blessing. More fundamentally, there is the argument that the public interest is best served by requiring that every radio station *expose* its particular audience to a broad cross-section of community issue progamming (whether that audience wishes to hear it or not). That such community cross-section programming may be *available* by turning the dial across the AM/FM bands is not enough, according to this argument; maximum *exposure* to that cross-section should be the regulatory goal.

While the foregoing arguments are not without appeal to a traditional interpretation of the public interest standard, I believe we have to recognize that specialization in both entertainment and nonentertainment programming is a "fact of life" in contemporary large market radio. By recognizing this fact in our regulatory policy, we also recognize that such specialization may lead to more particularized, in-depth treatment of community issues with greater appeal and value to radio listeners, both as members of constituent groups and as members of the community at large. Here, we also have to acknowledge that the existing "well-balanced" policy has by no means guaranteed a perfect or even substantial match of radio service and community group needs on a station-by-station basis. If issue programming responsive to minority and other significant group needs and interests is available across the radio dial, I think we are hard pressed under our First Amendment regime to find a valid rational for government imposition of a requirement that each station must nonetheless fit itself into the same "well-balanced" service mold with

[7] Par. 52.

[8] Par. 71.

respect to its nonentertainment programming. The ultimate public interest—"the right of the public to receive suitable access to social, esthetic, moral, and other ideas and experiences"[9]—is, I believe, better served by allowing informational programming specialization as an option of licensee discretion.

While I therefore concur in principle with the Commission's decision to allow radio licensee nonentertainment programming specialization, there remains the matter of the standard of "reasonable reliance" which will allow a licensee to specialize its informational program service. The Report and Order holds that while nonentertainment programming will remain a subject for consideration in both petition to deny and comparative renewal proceedings, the Commission's concern will focus on whether the licensee offered issue-responsive programming, and, if it chose to specialize, whether that decision was reasonable from the standpoint of the avilability of nonentertainment program service being provided by other stations in the market to segments of the community not served by the specializing licensee. While this standard makes sense to me in theory, the practical efficacy of this approach will again depend on the resonableness and good faith of radio licensees. Here, the Report and Order is clear on the point that "In all cases . . . the burden will be upon the licensee to demonstrate, if called upon to do so, that its determination was reasonable."[10] This discussion plainly indicates that a radio licensee cannot merely look at *Broadcasting Yearbook* summaries of the entertainment formats of the other stations in his market for the basis of "reasonable" judgments on what particular informational programming is available in that market. A "Soul" music format does not *ipso facto* imply a minority-oriented informational service, nor does a "Big Band" format connote nonentertainment program offerings for the elderly. Reasonable reliance on the radio marketplace requires particular, affirmative knowledge of that market. The *ad hoc* review standard of "reasonable reliance" prescribed by this Report and Order is not an invitation to fast shuffle community needs and interests all around the town. I do not wish to inhibit radio licensees from specializing their nonentertainment programming, but they must be on clear notice that their discretion to specialize is bounded by the overall performance of their markets in serving overall community needs and is further tied to a fair and accurate reading of that overall market performance.

Before leaving this aspect of the Report and Order, it needs to be observed that although we are no longer requiring "News" and "Public Affairs" as discrete program categories, our action does not sanction the complete demise of these two service offerings. The plainly-stated expectation of this Report and Order is that significant amounts of news programming will still be available to radio audiences, although not necessarily on every station. Failure of this expectation will mandate Commission review of our theory of radio marketplace reliance serving the public interest. As for "Public Affairs," the essence and importance of this type of programming is still embodied in the two-prong statutory obligation of the Fairness Doctrine: To cover controversial issues of public importance, and to afford reasonable opportunity for the presentation of contrasting views on those issues covered. Nothing in this Report and Order changes—or could change—this fundamental licensee obligation.

IV. Elimination of the Formal Ascertainment Requirements and Procedures

It is important to emphasize that while this Report and Order eliminates the formal ascertainment procedures and requirements for radio licensees, it leaves intact the fundamental ascertainment principle that radio broadcasters must be sensitive and responsive to the issues facing their communities. Given the great multiplicity of radio outlets, it is not unreasonable to allow competitive forces and broadcaster self-interest to ensure compliance with this essential principle. We are eliminating only the formalistic ritual of the ascertainment process which, in my judgment, now serves only as an elaborate petition-to-deny insurance policy for radio licensees and does little, if anything, to ensure actual programming responsive to community problems and interests. While these formal procedures and requirements may have served a "sensitizing" purpose in the past, their present and future value as a legitimate regulatory tool is severely undercut by the costly paperwork and resource displacement burdens they impose.

This action does not, however, give licensees the license to turn a deaf ear and an unseeing eye to their communities. While we are leaving the process of ascertainment to the reasonable, good faith discretion of radio licensees, this Report and Order plainly states that "It would be inconsistent with the exercise of good faith judgment for a broadcaster to be 'walled off' from its community."[11] We emphasize here that radio licensees must "maintain contact with their community on a personal basis as when contacted by those seeking to bring community problems to the station's attention."[12] Thus, as a minimum requirement radio licensees must maintain an "open door" policy which allows for the fullest input from their communities with respect to their program decision-making process. This obligation should not be regarded as a last vestige of ascertainment but as a fundamental requirement with which all radio licensees, as public trustees, will be expected to comply. Furthermore, although we will no longer be concerned with the particular process by which licensees determine their public issue programming, we will require licensees to indicate how they identified the issues they chose to cover as being of importance to their communities, thus maintaining the important linkage between the principle of ascertainment and program service. These minimal requirements, together with the obligation to maintain the annual issue/programming listing in the station's public file, should provide a good basis on which to continue the licensee-community dialogue that is at the heart of our public trustee system of broadcasting.

V. Elimination of the Program Log Requirements

Since program logs have been generally of use to the Commission in assessing licensee compliance with the existing nonentertainment programming and commercial guidelines, the elimination of those guidelines in large measure removes the rationale for the existing program log requirements. Radio licensees will still be required to maintain their public files, including their annual issues/program listings and associated material. I believe that this continuing public file requirement will afford interested members of the licensee's community adequate access to information necessary to evaluate licensee performance in terms of both qualitative and quantitative factors. While the public file requirement will not provide the data on station commercialization necessary to evaluate licensee and market performance under

[9] *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367, 390 (1969).

[10] Par. 54.

[11] Par. 60.

[12] *Id.*

the Commission's new permissive commercial policy, I think it reasonable to rely on the monitoring efforts of interested members of the public, such efforts appearing neither too complicated nor unduly burdensome.

VI. Conclusion

Whether or not the Commission labels it as such, this Report and Order is the beginning of an "experiment." It is an experiment testing the theory that less regulation and more reliance on competitive radio market forces will continue to meet, if not also enhance, the public interest in this important medium of communication. I believe the record and analysis in this proceeding provides reasonable assurance that this theory is workable. I think it deserves a fair opportunity to succeed. At the same time, our policy assumptions and performance expectations have been clearly stated as the predicate for our actions in this Report and Order. If experience in the real-world radio marketplace shows these assumptions to be in error and leaves these expectations unfulfilled, then the Commission will have the clear duty to revisit its actions.[19]

Given the sound and fury—and the dubious legality—of the "preferred options" set out in the original Notice of Proposed Rule Making, I can understand how in some quarters the intentions and credibility of this Report and Order may be subject to question. I emphasize that the actions, if not also all the rhetoric, of this Report and Order represent a sharp and clear departure from those original proposals. I concur in these actions, firmly believing that they keep faith with the public interest standard, and that we are committed to take remedial action if that faith proves to have been misplaced.

Dissenting Statement of Commissioner Tyrone Brown

Re: Radio Deregulation

In 1934 there were fewer than 600 radio broadcast stations in the United States. Today there are more than 9,000 providing a greater degree of program specialization than anyone expected in the early years. In light of this vast increase in the number of radio broadcast outlets, we opened this proceeding to determine whether we should eliminate our commercialization guidelines, quantitative nonentertainment programming guidelines, our formal ascertainment requirements and our second-by-second program logging requirements.

We license radio stations to specific communities so they can provide programming services to those communities. For me, therefore, the central issue in this proceeding has been the proposal to eliminate our quantitative nonentertainment programming guidelines. Assuming those guidelines are dropped, how does this agency make the necessary finding, for *each* station presented for renewel, that the licensee has sufficiently served "the public interest, convenience and necessity" to justify retention of the license?

In expressing tentative support for substantial simplification of our regulatory approach to radio, I have emphasized that I believe "local public service programming—in the broadest meaning of the phrase—is the cornerstone of the broadcaster's obligation to serve his local community." * Because today's decision places far too little emphasis on this bedrock principle, I reluctantly dissent.

In the place of the nonentertainment programming guidelines, the majority substitutes a general licensee obligation to program to issues relevant to its community or target audience. Proof of the broadcaster's performance will take the form of a list of local issues or informational program areas it has dealt with, including a description of why it chose those issues or program areas for presentation.

I encouraged the Commission to adopt such a list. It will serve two very important purposes: First, kept in the station's local public inspection file, it will serve as a basis for discussion for local listeners who may wish to discuss the station's programming decisions with management. Without such a document, the dialogue between the community and station management, which we all wish to encourage, would be severely inhibited. Secondly, the list will provide the Commission with a record on which to make the necessary affirmative public interest finding at renewal time—evidence of a licensee's compliance with its basic public interest obligation.

Until the open Commission meeting on this matter, I believe it was agreed that the critical list would focus on the licensee's locally originated programming. For more than 45 years, this Commission's consistent interpretation of the Act, in our approach to geographical allocation as well as in our statements on programming,** has required the licensing of *local* stations which must serve as *local* outlets for *local* expression of views. The majority today drastically revises this approach to permit radio broadcasters to rely entirely on outside sources for their informational programming.

I do not for a moment believe that most radio licensees will stop airing locally originated informational programming or dismantle their local origination capabilities. After today's decision, however, some few may. Because I believe the provision of programming which includes local discussion of issues is the *sine qua non* of radio service in the public interest, I would tell those who would abandon this principle that they should seek another line of business.

February 5, 1981.

Concurring Statement of Commissioner Anne P. Jones

In re: Deregulation of Radio (BC Docket No. 79-219)

By this action the Commission relieves radio of regulatory "guidelines" on commercials and nonentertainment programming and requirements on program logging and ascertainment of community needs. I applaud this action. I must say, however, that I consider it quite a modest deregulatory step, especially in view of the newly imposed requirement of an annual listing of issues and responsive programming, which I believe is neither necessary nor desirable. I especially object to the part of this new requirement which requires "a brief description of how the licensee determined each issue to be one facing his community." (Report and Order paragraph 71) As with the formal ascertainment we are eliminating, this new requirement is irrelevant to the question whether the issues addressed by the licensee are indeed "facing the community" and whether the programming presented in response to them constitutes meaningful service to the community. The requirement is, in effect, residual ascertainment, and I believe that it may in time lead to resurrection of the formal ascertainment which we should today be burying for all time.

In my view it is clear from the record in this proceeding that the vast majority of radio broadcasters today operate in markets where they must serve the needs and interests of their audience or

[19] *Geller* v. *FCC*, 610 F. 2d 973 (D.C. Cir. 1979).

*Remarks of Commissioner Tyrone Brown before the 17th Annual Southern California Broadcasters Association Public Service Workshop, Los Angeles, California (Dec. 8, 1978) (Mimeo No. 10397).

**See e.g., *Public Service Responsibility of Licensees* (the *"Blue Book"*) (1946); *En Banc Programming Inquiry Statement*, 44 FCC 2303, 2311 (1960) ("[A]ppropriate attention to local live programming is required.")

lose that audience to competitors. In these conditions there is no need for regulation to ensure that radio broadcasters serve their communities responsibly. They must do so to stay in business.

It is also clear from the record in this proceeding that many individuals and organizations are apprehensive that deregulation of radio may result in failure by some broadcasters to fulfill their public interest responsibilities. There is also some apprehension that deregulation may result in failure by some broadcasters to serve some needs which do not equate with economic demand. To the first of these apprehensions my response is that we do not, and cannot, in this proceeding abrogate the statutory obligation of broadcasters to serve the public interest, and we can deal with the few who may fail to fulfill that obligation without continuing to saddle the entire industry with unnecessary regulatory burdens. To the second apprehension my response is that where competitive forces are at work paternalistic regulation is unnecessary and ultimately self-defeating.

In my view it is high time for this Commission to remove itself as completely as possible from the radio market place. The audience is at least as competent as we are to decide what service it desires from radio, and nearly everywhere in the country listeners can tune in a station which provides the service they desire and tune out any which does not. I therefore concur with enthusiasm in this action by the Commission and urge it to move promptly to give radio the fullest possible relief from regulatory restrictions and requirements which, whatever their prior purpose and justification, are not justified today.

My own inclination at this point is to eliminate all nontechnical regulation of radio. I realize that that degree of deregulation would require amendment of the Communications Act, but I believe that the record in this proceeding amply justifies our recommendation to Congress that it give serious consideration to just such amendment.

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Tuesday
February 24, 1981

Part VI

Office of Management and Budget

Standard Assurances for Federal Assistance Programs

OFFICE OF MANAGEMENT AND BUDGET

Standard Assurances for Federal Assistance Programs

AGENCY: Office of Management and Budget.

ACTION: Notice for comment.

SUMMARY: This notice offers interested parties an opportunity to comment on a proposed revision to OMB Circular A-102, "Uniform requirements for grants to State and local governments," and Circular A-110, "Uniform requirements for grants to universities, hospitals, and nonprofit organizations." The revision would establish standard language for "assurances" that organizations must submit when applying for Federal assistance. The revision updates assurances already included in Circular A-102, and sets forth the same assurances for the first time in Circular A-110. These assurances are required by law, and this initiative is intended to streamline department and agency implementation. The standard legal assurances are set forth below in their entirety.

The standard assurances would establish consistency and uniformity among Federal agencies, and eliminate the need for many of the burdensome documentation requirements now imposed on applicants. The assurances also would provide a ready reference for Federal, State, and local auditors to those crosscutting laws applicable to Federal assistance programs. Under the provisions of Circular A-102 and A-110, auditors are responsible for determining whether an organization has complied with laws that may have an impact on the grantee's financial position.

It is proposed that Federal agencies implement the assurances through a standard form. However, we would be interested in hearing suggestions for alternative approaches to implementation.

The Office of Management and Budget has made no decisions with respect to the proposed assurances. All interested parties are encouraged to make their views known. Comments should be submitted to the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503. All comments should be received on or before April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. George Northway, Financial Management Branch, telephone 202-395-4773.

Daniel F. Mann,

Budget and Management Officer.

Assurances—Construction Programs

The Applicant hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements, including OMB Circulars A-95, if applicable, A-102, A-110, and applicable cost principles, as they relate to the application, acceptance and use of Federal funds for this federally assisted project. Also, the Applicant assures and certifies that it will comply with all requirements imposed by the Federal grantor agency concerning special requirements of law, program requirements, and other administrative requirements. In addition, the applicant assures and certifies with respect to the grant that:

1. It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representatives of the applicant to act in connection with the application and to provide such additional information as may be required.

2. It will comply with: a. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d), which prohibits discrimination on the basis of race, color, or national origin, in programs and activities receiving Federal financial assistance.

b. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in programs and activities receiving Federal financial assistance.

c. The Age Discrimination Act of 1975 enacted as an amendment to the Older Americans Act (Pub. L. 94-135), which prohibits unreasonable discrimination based on age in the delivery of services and benefits supported with Federal funds.

3. It will comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60). This requires the inclusion of the equal opportunity clause, as prescribed in 41 CFR Part 60, in all nonexempt contracts and subcontracts involving federally assisted construction. It applies to construction contracts which have or are expected to have an aggregate value exceeding $10,000 within a 12-month period.

4. Should grantee's actions result in the relocation of persons pursuant to Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (Pub. L. 91-646; 42 U.S.C. 4601), it will provide for fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs as required by the Act.

5. It will comply with the provisions of the Hatch Act, which limit the political activity of State and local government employees.

It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201), as they apply to employees of institutions of higher education, hospitals, other nonprofit organizations, and to State and local government employees who are not employed in integral operations in areas of traditional governmental functions.

7. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

8. It will give the Federal grantor agency and the Comptroller General through any authorized representative access to and the right to examine all records, books, papers, or documents related to the grant, including the records of contractors and subcontractors performing under the grant.

9. It will insure, pursuant to Executive Order 11738, that the facilities under its (or its subrecipient's) ownership, lease or supervision which shall be utilized in the accomplishment of the project, are not listed on the Environmental Protection Agency (EPA) list of violating facilities and it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be utilized in the project is under consideration for listing by the EPA.

10. It will comply with the provisions of Executive Order 11990, relating to protection of wetlands.

11. It will comply with standards for environmental quality control that may be prescribed pursuant to responsibilities of the Federal Government under the National Environmental Policy Act of 1969 (Pub. L. 91-190) 83 U.S.C. 4321 et seq. and Executive Order 11514, Protection and

Enhancement of Environmental Quality as amended by Executive Order 11991.

12. It will comply with the Flood Insurance Disaster Protection Act of 1973, Pub. L. 93–234 (42 U.S.C. 42106, 4128) 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, cooperative agreement, guaranty, insurance rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

13. It will comply with the provisions of Executive Order 11988, relating to evaluation of flood hazards, and Executive Order 12088, relating to Federal compliance with pollution control standards for Federal facilities and activities.

14. It will assist the Federal grantor agency in its compliance with section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historical Preservation Act of 1966 (16 U.S.C. 469a–1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR 800.8) by the grantee's activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

15. It will have sufficient funds available to meet the non-Federal share of the cost for construction projects. Sufficient funds will be available when construction is completed to assure effective operation and maintenance of the facility for the purposes constructed.

16. When required, it will obtain approval by the appropriate Federal agency of the final working drawings and specifications before the project is advertised or placed on the market for bidding; that it will construct the project, or cause it to be constructed, to final completion in accordance with the application and approved plans and specifications; that, when required, it will submit to the appropriate Federal agency for prior approval changes that alter the costs of the project, use of space, or functional layout; that it will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the construction grant program(s) have been met.

17. It will provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; that it will furnish progress reports and such other information as the Federal grantor agency may require.

18. It will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State and local agencies for the maintenance and operation of such facilities.

19. It will comply with the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 et seq.) and the standards issued pursuant to the Act. The applicant will be responsible for seeing that facilities are designed and constructed in accordance with applicable standards and for conducting inspections to ensure compliance with these specifications by the contractor.

20. It will not dispose of or encumber its title or other interests in the site and facilities during the period of Federal interest or while the Government holds bonds, whichever is the longer.

21. It will comply, when required by the Federal program legislation, with the Davis-Bacon Act (40 U.S.C. 276a to a–7) and as supplemented by Department of Labor regulations (29 CFR Part 5). This applies to all construction contracts and subcontracts awarded by the recipients and subrecipients of more than $2,000. Under this Act contractors and subcontractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in wage determination made by the Secretary of Labor. In addition, contractors and subcontractors shall be required to pay wages not less than once per week. The recipient or subrecipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of contract or subcontract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal sponsoring agency.

22. When Federal program legislation provides that the Davis-Bacon Act applies, it will comply with the "Copeland 'Antikick' Back Act" (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This applies to all construction and repair contracts and contracts of recipients and subrecipients in excess of $2,000. It provides that each contractor or subcontractor shall be prohibited from inducing by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he/she is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal sponsoring agency.

23. It will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–33) as supplemented by the Department of Labor regulations (29 CFR Part 5). This applies to contracts awarded by recipients or subrecipients for construction in excess of $2,000 and in excess of $2,500 for other contracts that involve the employment of mechanics or laborers.

24. It will cause work on the project to be commenced within a reasonable time after receipt of notification from the approving Federal agency that funds have been approved, and the project will be prosecuted to completion with reasonable diligence.

The person or persons whose signature(s) appear(s) below is/are authorized to sign this application, and to commit the applicant to the above provisions.

Name and Address of Organization _____
Title of Official _____
Telephone No. _____
Signature of Official _____
Date _____

Assurances—Nonconstruction Programs

The Applicant hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements, including OMB Circulars A–95, if applicable, A–102, A–110, and applicable cost principles, as they relate to the application, acceptance and use of Federal funds for this Federally assisted project. Also, the applicant assures and certifies that it will comply with all requirements imposed by the Federal grantor agency concerning special requirements of law, program requirements, and other administrative requirements. In addition, the applicant assures and certifies with respect to the grant that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the

applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

2. It will comply with: a. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, 42 U.S.C. 2000-d), which prohibits discrimination on the basis of race, color, or national origin, in programs and activities receiving Federal financial assistance.

b. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits descrimination on the basis of handicap in programs and activities receiving Federal financial assistance;

c. The Age Discrimination Act of 1975 enacted as an amendment to the Older Americans Act (Pub. L. 94-135) which prohibits unreasonable discrimination based on age in the delivery of services and benefits supported with Federal funds;

d. Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.) which prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance (whether or not the programs or activities are offered or sponsored by an educational institution).

3. Should grantee's actions result in the relocation of persons pursuant to the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (Pub. L. 91-646; 42 U.S.C. 4601 et seq.), it will provide for fair and equitable treatment of persons displaced as a result of Federal and Federally assisted programs as required by the Act.

4. It will comply with the provisions of the Hatch Act which limit the political activity of State and local government employees.

5. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201) as they apply to employees of institutions of higher education, hospitals, other nonprofit organizations, and to employees of State and local governments who are not employed in integral operations in areas of traditional governmental functions.

6. It will establish safeguards to prohibit employees from using their positions for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

7. It will give the Federal grantor or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant, including the records of contractors and subcontractors performing under the grant.

8. It will insure, pursuant to Executive Order 11738, that the facilities under its ownership, lease, or supervision, which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency (EPA) list of violating facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

9. It will comply, to the extent applicable, with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et seq.) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder.

10. It will comply with the provisions of Executive Order 11990, relating to protection of wetlands.

11. It will comply with provisions of Executive Order 11988, relating to floodplain management.

12. It will comply with standards for environmental quality control that may be prescribed pursuant to responsibilities of the Federal Government under the National Environmental Policy Act of 1969 (Pub. L. 91-190) and Executive Order 11514, Protection and Enhancement of Environmental Quality as amended by Executive Order 11991.

13. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 42 U.S.C. 4106 and 4128, 87 Stat. 975), which requires on or after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.

The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

14. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593 and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR 800.8) by the grantee's activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

15. It will comply with Pub. L. 93-348 as implemented by Part 46 of Title 45 (45 CFR 46, 42 U.S.C. 2891) regarding the protection of human subjects involved in research, development, and related activities supported by the grant.

16. It will comply with the Laboratory Animal Welfare Act of 1966 (Pub. L. 89-544, as amended, 7 U.S.C. 2131 et seq.) and regulations promulgated thereunder by the Secretary of Agriculture (9 CFR Subchapter H) pertaining to the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal awards.

17. It will comply with the equal opportunity clause prescribed by Executive Order 11246, as amended, and will require that its subrecipients include the clause in all construction contracts and subcontracts which have or are expected to have an aggregate value within a 12-month period exceeding $10,000, in accordance with Department of Labor regulations at 41 CFR Part 60.

18. It will include, and will require that its subrecipients include, the provision set forth in 29 CFR 5.5(c) pertaining to overtime and unpaid wages in any nonexempt nonconstruction contract which involves the employment of mechanics and laborers (including watchmen, guards, apprentices, and trainees) if the contract exceeds $2,500.

The person or persons whose signature(s) appear(s) below is/are authorized to sign this application, and to commit the applicant to the above provisions.

Name and Addresses of Organization _____
Title of Official _____
Signature of Official _____
Date _____

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federal register

Tuesday
February 24, 1981

Part VII

Department of Health and Human Services

Office of Human Development Services

Runaway and Homeless Youth Program; Availability of Financial Assistance

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Administration for Children, Youth and Families

[Program Announcement No. 13 623-811]

Runaway and Homeless Youth Program; Availability of Financial Assistance

AGENCY: Office of Human Development Services.

SUBJECT: Announcement of Availability of Financial Assistance—Centers for Runaway and Homeless Youth.

SUMMARY: The Administration for Children, Youth and Families (ACYF), Youth Development Bureau (YDB), announces the availability of Fiscal Year 1981 funds for Runaway and Homeless Youth Center Program Grants. These Grants are authorized by the Runaway and Homeless Youth Act, 42 U.S.C. 5701 et seq. This Act was enacted by Title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. 93-415), as amended by the Juvenile Justice Amendments of 1977 (Pub. L. 95-115), and the Juvenile Justice Amendments of 1980 (Pub. L. 96-509).

DATE: The closing date for receipt of application is April 27, 1981.

Scope of This Announcement

This Program Announcement describes the application process for Runaway and Homeless Youth Center Program grants to be awarded during Fiscal Year 1981. Competition for grant awards in other ACYF program areas will be announced separately in the **Federal Register**.

Program Purpose

The National Runaway and Homeless Youth Program is administered by the Administration for Children, Youth and Families of the Office of Human Development Services, Department of Health and Human Services. The Runaway and Homeless Youth Act provides financial assistance to establish or strengthen community-based centers designed to address the needs (e.g., temporary shelter, counseling and aftercare services) of runaway and homeless youth and their families. Programs receiving funding under the Runaway and Homeless Youth Program are required to be knowledgeable of and to adhere to the requirements of 45 CFR, Part 1351, Runaway Youth Program, and other applicable Federal regulations. (Copies of the regulations pertaining to this program will be included in the application kit). Applicants must develop their application in accordance with those regulations and the Supplementary instructions which are also included in the kit.

Program Goals and Objectives

The goals of this program are to assist Runaway and Homeless Youth Centers: (a) to alleviate the problems of runaway and homeless youth; (b) to reunite youth with their families and to encourage the resolution of intrafamily problems through counseling and other services; (c) to strengthen family relationships and to encourage stable living conditions for youth; and (d) to help youth decide upon a future course of action. The centers funded under this program are required to provide temporary shelter, counseling and aftercare services which address the immediate needs of youth while they are away from home, and provide individual and family counseling and other assistance required to resolve intrafamily problems and to strengthen family relationships. Additionally, both directly and through linkages with other social services agencies, the centers furnish other assistance such as health, education, legal, and employment services geared to the needs of the individual clients served.

Eligible Applicants

States, localities, and nonprofit private agencies, and coordinated networks of such agencies are eligible to apply for a Runaway and Homeless Youth Center grant unless they are part of the law enforcement structure or the juvenile justice system. States are defined to include any State of the United States, athe District of Columbia, Commonwealth of Puerto Rico, and the Trust Territories of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. (See 42 U.S.C. 5603(7), as amended by Sec. 5(c) of Pub. L. 96-509). Indian tribes and Indian organizations which are not federally recognized are eligible to apply for grants as nonprofit private agencies. Federally recognized Indian tribes are eligible to apply for grants as local units of government. A coordinated network of agencies is an association of two or more nonprofit public or private agencies or any combination thereof providing services to runaway or homeless youth and their families. Agencies will compete for funds with other applicant organizations within the same State.

Under Sec. 313 of this Act, as amended (42 U.S.C. 5713) DHHS gives priority in considering grant applications to organizations which have demonstrated experience in providing services to runaway and homeless youth and their families and to organizations seeking grants of less than $150,000. Centers must be located in an area frequented or easily reachable by runaway youth and have a maximum capacity of no more than 20 youth.

Available Funds

The Administration for Children, Youth and Families expects to award $10,200,000 in grants to centers for runaway and homeless youth during fiscal year 1981. The Runaway and Homeless Youth Act now specifies that beginning in fiscal year 1981, funds will be made available to each State based upon its respective youth population under the age of 18. All grants will be awarded on a competitive basis. Programs previously funded under the Runaway Youth Act must compete with all other applicants for funding.

With respect to the period of funding, successful applicants which have not previously received a project grant under this program will be awarded a grant for a *four-year project period*, subject to an annual non-competitive refunding determination. Successful applicants which have previously received a project grant under the program will be awarded financial assistance for a *two-year project period*. These grantees shall be eligible for continuation funding in the second year of the two-year project period and then will be required to reapply for funding. Continued support for all grants after every year will depend upon the availability of funds and the grantee's satisfactory performance.

In the event that agencies within any State jurisdiction either submit applications which fail to meet the minimum critieria for funding, or agencies within the respective State jurisdictions do not submit applications, the Department of Health and Human Services will reassign, at the discretion of the Secretary, any unused funds for one-time efforts pursuant to Sec. 311 of Pub. L. 96-509.

It is anticipated that approximately 165 grants will be awarded pursuant to this announcement. The number of grants awarded within each State will depend upon the State's allocation and the number of acceptable applications. In general, the amount of a grant award will range from $10,000 to $100,000 annually. As mentioned earlier in this announcement, priority will be given to organizations requesting grants of less than $150,000. The amount of each grant will be determined by the ACYF

Regional Office based on the number of runaway or homeless youth in the community in which the center will be located; the existing availability of services designed to meet the immediate needs of runaway and homeless youth and their families; and the range and types of services to be provided under the proposed project within the requirements of the Act.

The following table indicates the fiscal year 1981 allocations for each State and jurisdictions.

Runaway and Homeless Youth, Centers Allocations by State

[Total 57 States—fiscal year 1981]

Alabama	179,484
Alaska	23,455
Arizona	120,336
Arkansas	101,980
American Samoa	2,040
California	990,222
Colorado	127,475
Connecticut	130,534
Delaware	26,515
D.C.	26,515
Florida	354,889
Georgia	247,810
Guam	9,178
Hawaii	43,851
Idaho	46,911
Illinois	514,997
Indiana	253,929
Iowa	130,534
Kansas	102,999
Kentucky	166,227
Louisiana	205,999
Maine	50,990
Maryland	182,543
Massachusetts	241,692
Michigan	435,453
Minnesota	185,603
Mississippi	128,494
Missouri	214,157
Montana	37,732
Nebraska	71,386
Nevada	32,633
New Hampshire	40,792
New Jersey	318,178
New Mexico	64,247
New York	756,689
North Carolina	256,989
North Dakota	30,594
Northern Marianas	1,020
Ohio	491,542
Oklahoma	129,514
Oregon	111,158
Pennsylvania	495,621
Puerto Rico	205,999
Rhode Island	38,752
South Carolina	143,791
South Dakota	32,633
Tennessee	196,860
Texas	651,650
Trust Territories	10,198
Utah	80,564
Vermont	22,436
Virginia	229,454
Virgin Islands	6,119
Washington	174,385
West Virginia	85,663
Wisconsin	214,157
Wyoming	22,436

Grantee Share of the Project

The Administration for Children, Youth and Families will pay up to 90 percent of the cost of operating a center for runaway and homeless youth. The non-Federal portion may be in cash or in-kind (including the facility, equipment or services) and must be project-related and allowable under the provisions of 45 Code of Federal Regulations, Part 74, the Department's regulation on the Administration of Grants. (A copy of Part 74, Subpart Q is included in the application kit.)

The Application Process

Information To Be Made Available—Submission of Applications

Information about the availability of fiscal year 1981 funds to suport centers for runaway and homeless youth will be made available to the public through this announcement and to the extent feasible, through notices to appropriate public and private nonprofit organizations in each State. Agencies and organizations interested in applying for funds may request application kits from the cognizant ACYF Regional Offices. (See addresses for rhe Regional Offices at the end of this announcement.)

In order to be considered for a Runaway and Homeless Youth Center Grant, an application must be submitted on the forms and in the manner required by the Administration for Children, Youth and Families.

The application must be executed by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award. Applications must be prepared in accordance with the guidance provided in the announcement and the instructions in the application kit. One signed original and two copies of the grant application, including all attachments, are required. Completed applications, including all copies, must be sent to the appropriate Directors, Office of Fiscal Operations in the applicant's region. (Addresses for the Regional Offices of Fiscal Operations will be included in the application kits.)

A-95 Notification Process

All applications are subject to the Project Notification and Review Procedures required by OMB Circular A-95, Part I. This circular requires applicants to notify State and Area-wide A-95 Clearinghouses of the intention to apply for a grant and, if requested by a clearinghouse, to submit a copy of the application. Some State and Area Clearinghouses provide their own forms on which such information is to be submitted. *Applicants should immediately contact the appropriate State Clearinghouse for information on the A-95 requirements.* Applicants which are Federally recognized Indian tribes are not subject to the requirements of the Project Notification and Review Procedures. Such applicants may voluntarily participate in this system and are encouraged to do so. Instructions for meeting these requirements and the names and addresses of State and Area-wide Clearinghouses will be provided in the application kit.

Application Consideration

All applicantions which are complete and conform to the requirements of this program announcement will be subject to a competitive review and evaluation process. This review will be conducted at the HHS/HDS Regional Office level by persons knowledgeable in the areas of youth development and/or human services programs who are outside and independent of the Administration for Children, Youth and Families. The consideration of applications by the competitive review panel may also take into account the comments of appropriate specialists inside and outside the Federal Government. The results of the competitive review will be reported to the ACYF Regional Program Director who will make the final selection of the successful applicants. Organizations whose applications have been disapproved will be notified in writing of that decision. Successful applicants will be notified through the issuance of a Notice of Financial Assistance Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support is given, and the total period for which project support is provided.

Special Consideration for Funding

The Runaway and Homeless Youth Act requires that priority for funding be given to organizations with demonstrated experience in dealing with runaways and homeless youth, and organizations requesting grants of less than $150,000.

Crieteria for Review of Applications

Competing applications for financial assistance will be reviewed and evaluated against the following criteria:

1. The reasonableness of the proposed budget with a breakdown of costs; the extent to which the applicant has access to other resources which can strengthen support for the existing or proposed center's activities; and whether a center grant request is less than $150,000. (25 points)

2. The extent to which the applicant documented the need for services for runway and homeless youth and proposed service areas (e.g., particular communities, districts, neighborhoods,

etc.) on the basis of a comprehensive community needs assessment, and the extent to which the selection of these areas is based on the incidence of runaway and homeless youth. (Information to be provided by the applicant should include data on the incidence of runaways in the geographic area to be served, and analysis of other resources and services available in the community to serve this target population, a discussion of the benefits to the community of a runaway and homeless youth center program and a description of the precise location of the center.) (20 points)

3. The potential of the applicant to establish a center which can achieve the goals and requirements of this grant program as set forth in the legislation, regulations, and Program Performance Standards. (30 points)

4. The extent to which the applicant organization has demonstrated prior experience in planning, organizing and providing services to runaway, homeless youth, and their families. (15 points)

5. The capacity of the applicant to provide adequate facilities and a level of staffing appropriate for the implementation of a runaway and homeless youth center. (10 points)

Closing Date for Receipt of Applications

The closing date for the receipt of applications under this program announcement is April 27, 1981. Applications received after the closing date; at 5:00 p.m., will be considered ineligible and will not be reviewed and evaluated. An application will be considered to be received on time by the Administration for Children, Youth and Families if:

• The application is at the designated Regional HDS Office of Fiscal Operations on or before the established closing date. (Addresses for Office of Fiscal Operations will be included in the application kit.) Hand-delivered applications will be accepted daily from 9:00 a.m. to 5:00 p.m., except Saturdays, Sundays, and Federal holidays. Evidence of the date and time of receipt will be maintained by the Department of Health and Human Services.

• The application is postmarked by the established closing date as indicated by the U.S. Postal Service postmark on the wrapper or envelope or, if the application was sent by registered or certified first class mail, the postmark on the original receipt from the U.S. Postal Service.

Applications received after the deadline will not be accepted and will be returned to the applicant without consideration.

Availability of Application Forms

Application packages which contain the prescribed application forms and information for the applicant,may be obtained by writing to the appropriate Regional Program Director in the HHS Region in which the program will be located. The addresses of the Regional Offices are listed below:

Region I
Mr. Dick Stirling, Regional Program Director, Office of Human Development, John F. Kennedy Federal Building, Room 2011, Boston, Massachusetts 02203 (VT, CT, ME, NH, RI, MA), Attn: Ms. Susan Selya, Special Assistant for Youth Affairs) (617–223–6450)

Region II
Ms. Elaine P. Danavall, Regional Program Director, Office of Human Development, 26 Federal Plaza, Room 4149, New York, New York 10278 (NY, NJ, PR, VI), Attn: Mr. Thomas Kearney, Special Assistant for Youth Affairs) (212–264–4439)

Region III
Mr. Fred Digby, Regional Program Director, Office of Human Development, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101 (DE, DC, MD, VA, WV, PA), Attn: Ms. Mary Williams, Special Assistant for Youth Affairs) (215–596–0356)

Region IV
Mr. John Jordan, Regional Program Director, Office of Human Development, 101 Marietta Tower, Suite 903, Atlanta, Georgia 30323 (AL, FL, GA, KY, MS, NC, SC, TN), Attn: Ms. T. J. Richie, Special Assistant for Youth Affairs) (404–242–2134)

Region V
Mr. Hilton Baines, Regional Program Director, Office of Human Development, 300 South Wacker Drive, Chicago, Illinois 60606 (IL, IN, MN, OH, WI, MI), Attn: Ms. Katie Williams, Special Assistant for Youth Affairs (312–353–5183)

Region VI
Mr. Tommy Sullivan, Regional Program Director, Office of Human Development, 1200 Main Tower, 20th Floor, Dallas Texas 75202 (LA, NM, OK, TX, AR), Attn: Mr. Jerry Mabe, Special Assistant for Youth Affairs) (214–729–2979)

Region VII
Mr. German White, Regional Program Director, Office of Human Development, Federal Building, Room 384, 601 East 12th Street, Kansas City, Missouri 64106 (IA, KS, MO, NE), Attn: Ms. Linda D. Cloud, Special Assistant for Youth Affairs) (816–758–3981)

Region VIII
Mr. David Chapa, Regional Program Director, Office of Human Development, 19th and Stout Streets, Denver, Colorado 80202 (CO, MT, ND, SD, UT, WY), Attn: Mr. Albert A. Martinez, Special Assistant for Youth Affairs) (303–327–3106)

Region IX
Mr. Roy Fleischer, Regional Program Director, Office of Human Development, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102 (AZ, CA, HI, NV, GU, AS, TT), Attn: Mr. Roger Injayan, Special Assistant for Youth Affairs) (415–556–6178)

Region X
Mr. William Hayden, Regional Program Director, Office of Human Development, Arcade Plaza Building, Room 811, 1321 Second Avenue, Seattle, Washington 98101 (AK, ID, OR, WA), Attn: Mr. Leslie Rucker, Special Assistant for Youth Affairs) (206–399–0838)

(Catalog of Federal Domestic Assistance Program Numberr 13.623 Runaway and Homeless Youth Program)

Dated: February 20, 1981.

John Busa,

Acting Commissioner, Administration for Children, Youth and Families.

Approved: February 20, 1981.

Warren Master,

Acting Assistant Secretary for Human Development Services.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing February 19, 1981