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Thursday
May 7, 1981

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the **Reader Aids** section at the end of this issue.

CONTINUED INSIDE

Highlights

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Contents

Federal Register
Vol. 46, No. 88
Thursday, May 7, 1981

MEETINGS ANNOUNCED IN THIS ISSUE

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Executive Orders:
11992 (Revoked by EO 12305) 25421
12059 (Revoked by EO 12305) 25421
12064 (Revoked by EO 12305) 25421
12084 (Revoked by EO 12305) 25421
12097 (Amended by EO 12305) 25421
12258 (Amended by EO 12305) 25421
12305 25421

7 CFR
907 25423
918 25423
985 25424

8 CFR
100 25425

9 CFR
73 25425

10 CFR
903 25426
Proposed Rules:
459 25446

14 CFR
39 (4 documents) 25427-25429
71 (6 documents) 25430-25433
95 25434
Proposed Rules:
Ch. I 25466
71 25467
75 25468

16 CFR
Proposed Rules:
Ch. I 25468
Ch. II 25478
13 25476

18 CFR
401 25439

32 CFR
57 25440

37 CFR
201 25442

38 CFR
36 (2 documents) 25443, 25444

39 CFR
111 25446

40 CFR
52 25446
81 25446
1501 25461
1502 25461
1508 25461
Proposed Rules:
52 (3 documents) 25481, 25483, 25485
180 25486

47 CFR
73 (2 documents) 25461, 25462
83 25463
Proposed Rules:
73 (3 documents) 25487-25489
76 25490

49 CFR
571 25463
Proposed Rules:
Ch. I 25491
173 25492

Federal Register
Vol. 46, No. 88
Thursday, May 7, 1981

Presidential Documents

Title 3—

The President

Executive Order 12305 of May 5, 1981

Termination of Certain Federal Advisory Committees

By the authority vested in me as President by the Constitution of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), the following Executive Orders, establishing advisory committees, are hereby revoked and the committees terminated:

(a) Executive Order No. 12059 of May 11, 1978, as amended, establishing the United States Circuit Judge Nominating Commission;

(b) Executive Order No. 11992 of May 24, 1977, establishing the Committee on Selection of Federal Judicial Officers;

(c) Executive Order No. 12084 of September 27, 1978, as amended by Executive Order 12097 of November 8, 1978, establishing the Judicial Nominating Commission for the District of Puerto Rico; and

(d) Executive Order No. 12064 of June 5, 1978, establishing the United States Tax Court Nominating Commission.

Subsections (g), (i), (j) and (k) of Section 1–101 of Executive Order No. 12258, extending these committees, are also revoked.

Ronald Reagan

THE WHITE HOUSE,
May 5, 1981.

[FR Doc. 81-13973
Filed 5-5-81; 4:49 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 46, No. 88
Thursday, May 7, 1981

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Oragne Regs. 521; 520, Amdt. 1]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period May 8–May 14, 1981, and increases the quantity of such oranges that may be so shipped during the period May 1–May 7, 1981. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective May 8, 1981, and the amendment is effective for the period May 1–May 7, 1981.

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

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under USDA procedures and Executive Order 12291 and has been classified "not significant", and is not a major rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81. The marketing policy was recommended by the committee following discussion at a public meeting on October 14, 1980. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on May 5, 1981, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges has improved.

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

Forms required for operation under this part are subject to clearance by the Office of Management and Budget and are in the process of review.

1. § 907.821 is added as follows:

§ 907.821 Navel Orange Regulation 521.

The quantities of navel oranges grown in Arizona and California which may be handled during the period May 8, 1981, through May 14, 1981, are established as follows:

(1) District 1: 1,300,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

2. § 907.820 Navel Orange Regulation 520 (46 FR 24143), is hereby amended to read:

§ 907.820 Navel Orange Regulation 520.

* * * * *

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

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

Dated: May 6, 1981.

D. S. Kuryloski

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81-14023 Filed 5-6-81; 11:32 am]

BILLING CODE

7 CFR Part 918

[Peach Reg. 1]

Fresh Peaches Grown in Georgia; Grade and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes minimum grade and size requirements for fresh peaches grown in Georgia for the 1981 season. These requirements are designed to promote orderly marketing in the interests of producers and consumers.

EFFECTIVE DATE: May 7, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been classified "not significant" and not a major rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

This regulation is issued under the

marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on information submitted by the Industry Committee, established under the order, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on April 16, 1981, to consider supply and market conditions and other factors affecting the need for regulation. It recommended minimum grade and size requirements for shipments of fresh peaches grown in Georgia, except for those shipped in bulk to adjacent markets, which it deemed advisable for the 1981 season. The exception of peaches shipped in bulk to adjacent markets from regulation requirements follows the practice of prior years. It is designed to permit shipment of peaches which are of a quality and size acceptable in the adjacent markets but are not suitable for distribution in more distant markets in competition with peaches from other areas.

The committee reports that it expects 1,750 carlots of inspected peaches to be shipped this season, compared with 1,805 carlots in 1980. It also reports that the developing crop is of good quality. Shipment of this season's Georgia peach crop is expected to begin about May 7, 1981, and ample supplies of peaches meeting the following requirements are expected to be available to satisfy the demand. Peaches failing to meet these requirements may be marketed in Georgia, shipped to adjacent markets, or utilized in processing.

The following regulation reflects the Department's appraisal of the need for regulation based on the current and prospective crop and market conditions.

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

Forms required for operation under this part are subject to clearance by the Office of Management and Budget and are in the process of review. They shall not become effective until such time as clearance by the OMB has been obtained.

Therefore, a new § 918.323 is added to read as follows: (§ 918.323 expires August 31, 1981, and will not be published in the annual Code of Federal Regulations).

§ 918.323 Peach Regulation 1.

(a) No handler shall ship, except peaches in bulk to destinations in the adjacent markets, any peaches which:

(1) During the period May 7, 1981, through August 31, 1981, do not grade at least 85 percent U.S. No. 1 quality: *Provided,* That peaches with well-healed hail marks or split pits not scored as serious damage, or peaches with not more than 1 percent decay, may be shipped if they otherwise meet the requirements of this subparagraph.

(2) During the period May 7, 1981, through August 31, 1981, are smaller than 1⅝ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1⅝ inches in diameter.

(b) The inspection requirement contained in § 918.64 of this part shall not be applicable to any shipment of peaches in bulk to destinations in the adjacent markets, except for peaches in closed containers, during the period May 7, 1981, through August 31, 1981.

(c) The maturity regulations contained in § 918.400 of this part are hereby suspended with respect to shipments of peaches to all destinations other than those in the adjacent markets during the period May 7, 1981, through August 31, 1981.

(d) "U.S. No. 1" and "diameter" mean the same as defined in the United States Standards for Peaches (7 CFR 2851.1210–2851.1223).

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

Dated: May 5, 1981, to become effective May 7, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-13926 Filed 5-6-81; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 985

Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 1981–82 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes, by class, the quantity of spearmint oil that may be freely marketed by handlers from the 1981 crop. The action is taken under Marketing Order No. 985, which regulates the handling of spearmint oil produced in the Far West to promote orderly marketing conditions. It was recommended by the Spearmint Oil Administrative Committee, which works with the Department in locally administering the order.

EFFECTIVE DATE: For the marketing year beginning June 1, 1981, and ending May 31, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. (202) 447–5697. An impact statement relative to this final action is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, it is not a major rule.

William T. Maney, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated 10 handlers.

Forms required for operation under this part are subject to clearance by the Office of Management and Budget and are in the process of review. They shall not become effective until such time as clearance by the OMB has been obtained.

It is found that food cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because: (1) The 1981–82 marketing year begins June 1, 1981, and producers and handlers need to be informed of the salable quantities and allotment percentages as soon as possible so they can plan their operations accordingly; (2) no useful purpose would be served by delaying the effective date of this

action; and (3) the Committee held open meetings on October 7, 1980, and March 3, 1981, and interested persons were given the opportunity to submit information and views on the salable quantities and allotment percentages at those meetings.

Notice inviting written comments on the proposed establishment of a salable quantity and allotment percentage for each of three classes of spearmint oil was published in the **Federal Register** on February 12, 1981 (46 FR 12000). The proposal was made pursuant to the applicable provisions of Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). One comment was received.

The commentator objected to a 40 percent allotment percentage for "Class 1" Oil contending that it was too restrictive and would have an adverse impact on producers in Idaho. The Committee's proposal to establish volume regulation for "Class 1" Oil and the two other oil classes was made to help solve the industry's current marketing problems caused by excessive supplies of each class of oil. The industry's objective is to reduce gradually the excessive supplies to more manageable levels and thereby establish better marketing conditions for spearmint oil. Under the act for programs of this kind, allocation of the quantity which handlers may purchase from or handle on behalf of any and all producers must be under a uniform rule so that the total quantity to be handled or purchased is apportioned equitably among producers.

The Committee decided on a salable quantity of 562,760 pounds and a 40 percent allotment percentage for "Class 1" Oil after considerable study. It considered actual data available and the industry's estimates of carrying, trade demand, and desirable carryout for the 1981–82 marketing year. This computation would have resulted in a salable quantity of 315,825 pounds and an allotment percentage of 22 percent. The Committee believed that such a restrictive allotment percentage would impose too great a hardship on many produces and that the excessive inventory should be reduced over several years rather than one year.

After consideration of all relevant matter presented, including that in the notice, the comment submitted, the information, and recommendation submitted by the Committee and other available information, it is further found that to establish this rule will tend to effectuate the declared policy of the act.

Therefore, § 985.201 is added under "Subpart—Salable Quantities and Allotment Percentages (7 CFR Part 200) as follows:

§ 985.201 Salable quantities and allotment percentages—1981–82 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year which begins June 1, 1981, shall be as follows:

(a) "Class 1" Oil—a salable quantity of 562,760 pounds and an allotment percentage of 40 percent.

(b) "Class 2" Oil—a salable quantity of 25,380 pounds and an allotment percentage of 20 percent.

(c) "Class 3" Oil—a salable quantity of 815,790 pounds and an allotment percentage of 47.5 percent.

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

Dated: May 1, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 81-13841 Filed 5-6-81; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 100

Organization and Functions; Service Office Locations

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This notice adds Bangkok, Thailand, Montevideo, Uruguay, and Singapore, Republic of Singapore to the list of overseas Service office locations and removes Tijuana, Mexico, and Tokyo, Japan from the same listing.

EFFECTIVE DATE: June 5, 1981.

FOR FURTHER INFORMATION CONTACT:

For general information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536. Telephone: (202) 633–3048

For specific information: Frank R. Potter, Immigration Inspector, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536. Telephone: (202) 633–2361

SUPPLEMENTARY INFORMATION: 8 CFR 100.4(c)(4) lists the locations of overseas Immigration and Naturalization Service offices. This amendment adds "Bangkok, Thailand" "Montevideo, Uruguay," and "Singapore, Republic of Singapore" to advise the public of these overseas Service offices. The public is also advised that the Service offices at Tijuana, Mexico, and Tokyo, Japan have been closed and are being deleted from the listing.

Compliance with 5 U.S.C. 553 as to proposed rulemaking and delayed effective date is unnecessary as this amendment merely updates the regulations to include to locations of new overseas Service offices.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This order constitutes a notice to the public regarding the organization of the Service's overseas offices and is not a rule within the definition of section 1(a)(3) of E.O. 12291.

Accordingly, 8 CFR Part 100.4—Field Service, is amended as follows:

§ 100.4 [Amended]

8 CFR 100.4(c)(4) is amended by removing "Tijuana, Mexico" and "Tokyo, Japan" and adding "Bangkok, Thailand", "Montevideo, Uruguay" and "Singapore, Republic of Singapore" in proper alphabetical sequence to the list of *"Immigration Offices in foreign countries:"*

(Sec. 103; 8 U.S.C. 1103)

Dated: May 4, 1981.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 81-13840 Filed 5-6-81; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 73

Scabies in Cattle; Areas Quarantined and Released

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine a portion of Randall County in Texas, occupied by a facility conducting research on cattle scabies, in order to prevent the dissemination of cattle scabies. The effect of this action will be to place certain restrictions on the interstate movement of cattle from the quarantined area.

Also, these amendments release the portion of Potter County in Texas,

previously occupied by the research facility, from areas quarantined because of cattle scabies. Surveillance activity indicates that cattle scabies no longer exists in the quarantined area. The effect of this action will allow for less restrictions on cattle moved interstate from this area.

EFFECTIVE DATE: May 1, 1981.

FOR FURTHER INFORMATION CONTACT:
Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8322.

SUPPLEMENTARY INFORMATION: This final action has been reviewed in conformance with Executive Order 12291, and has been classified as not a "major rule."

The Department has determined that this rule will have an annual effect on the country of less than $100 million, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action. The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies from such area and must be made effective immediately to accomplish its purpose in the public interest.

The amendment releasing the quarantined area relieves certain restrictions no longer deemed necessary to prevent the spread of cattle scabies from such area and should be made effective immediately in order to permit affected persons to move cattle interstate from such area without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it affects only the premises of one entity, Pest Consultants, Inc. Pest Consultants, Inc. does research on the disease, cattle scabies. Pest Consultants, Inc. has moved its research facility from the quarantined area in Potter County to the area to be quarantined by this amendment in Randall County. No new or additional quarantine restrictions are being placed on the new premises that were not on the old premises.

These amendments quarantine a portion of Randall County in Texas because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas, contained in 9 CFR Part 73, as amended, apply to the quarantined area.

Also, the amendments release the portion of Potter County in Texas previously occupied by Pest Consultants, Inc. from the areas quarantined for cattle scabies. Surveillance activity indicates that cattle scabies no longer exists in that quarantined area. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, no longer apply to the released area.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended in the following respects:

1. The authority citation for Part 73 reads as follows:

Authority: Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.

2. In § 73.1a(a), relating to the State of Texas, paragraph (3), relating to the premises of Pest Consultants, Inc., comprised of Lot 691, sec. 164, Block 2 located at 7146 North Broadway, Amarillo, Potter County, Texas, is removed, and in lieu thereof the following is added. As revised, paragraph (a)(3) reads as follows:

§ 73.1a Notice of quarantine.

* * * * *

(a) * * *

(3) The premises of Pest Consultants, Inc., comprised of approximately 12.67 acres located in the McMurty Acres Subdivision on S. Western Street, 5 miles south of Amarillo, Randall County, Texas, described as all of tract No. 6 except the north one-half consisting of 5.19 acres and a 1-acre tract in the southwest corner of the premises.

* * * * *

Done at Washington, D.C., this 1st day of May 1981.

K. R. Hook,

Acting Deputy Administrator Veterinary Services.

[FR Doc. 81-13842 Filed 5-6-81; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

10 CFR Part 903

Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions

AGENCY: Department of Energy.

ACTION: Amendment to final rule.

SUMMARY: Notice is given that the Department of Energy is amending its regulations on "procedures for public participation in power and transmission rate adjustments and extensions" (45 FR 86976, Dec. 31, 1980) in order to change all references from "Assistant Secretary for Resource Applications" to "Assistant Secretary for Conservation and Renewable Energy." The amendment is necessary as a result of the transfer on February 24, 1981, of the Office of Power Marketing Coordination and the power marketing administrations from the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy.

DATE: This amendment is effective as of February 24, 1981.

FOR FURTHER INFORMATION CONTACT:

James A. Braxdale, Office of Power Marketing Coordination, Department of Energy, (202) 633–8338

Richard K. Pelz, Office of General Counsel, Department of Energy, (202) 252–2918.

SUPPLEMENTARY INFORMATION: On March 19, 1981, Delegation Order No. 0204–33, dated December 21, 1978, and effective January 1, 1979, was amended by substituting the "Assistant Secretary for Conservation and Renewable Energy" for the "Assistant Secretary for Resource Applications."

Issued in Washington, D.C., April 28, 1981.

Frank DeGeorge,

Acting Assistant Secretary, Conservation and Renewable Energy.

Part 903 is amended by changing the reference to "Assistant Secretary for Resource Applications" to "Assistant Secretary for Conservation and Renewable Energy" wherever those words appear in Part 903.

[FR Doc. 81-13803 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-WE-3-AD; Amdt. 39-4103]

Hiller Aviation Model FH 1100 Series Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires a one time inspection of the flight control system support column for conformity to type design and replacement, if necessary, on certain Hiller Aviation Model FH 1100 series helicopters. The AD is needed to prevent flight control system support column deflecting and contacting the main motor mast, affecting rotor stability causing excessive vibration and fatigue failure.

DATES: Effective May 11, 1981.

Compliance schedule—Within ten (10) calendar days from the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Hiller Aviation, 2075 West Scranton Avenue, Porterville, California 93275.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: Early service experience of the Fairchild/Hiller FH 1100 helicopter indicated that the flight control system support column, during some maneuvers, bends sufficiently to contact the main rotor mast which may result in fatigue related damage and subsequent loss of main rotor mast. This was attributed to inadequate bending stiffness in the column base support. As a result, a Service Bulletin 30-6, dated 1969, was issued which required a replacement of the original type design column (base thickness equal to 0.060 inches) with a new design incorporating a base thickness 0.090 inches. The type design data was changed to reflect that only the support column with base thickness of 0.090 inches is approved. Since the transfer of the Type Certificate to Hiller Aviation, including the spare parts, eleven (11) undersized support column bases were found in stock and subsequently destroyed. Since there may be other support columns in service with the undersized base, Hiller has written a Service Bulletin 30-9 dated April 3, 1981, requiring a one time inspection of the present fleet to determine whether or not undersized parts are in service. If such parts are found, they are to be replaced with new parts that are within the type design. If an undersized part is found, an inspection of the main rotor mast for damage in a localized area is also required.

Note.—Hiller kits P/N SBK-FH-1100-23-2 and spares stock may contain undersize flight control system support columns.

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

Adoption of the Amendment

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

Hiller Aviation: Applies to all Models FH 1100 Series Hellcopter, certified in all categories, Serial Nos. 001 through 254.

Compliance required as indicated, unless already accomplished.

To prevent the upper controls support column from contacting and damaging the main rotor mast, accomplish the following:

(a) Within the next ten (10) calendar days from the effective date of this AD

(1) Accomplish a one time visual inspection of the support column P/N 24-30208 to determine whether or not the base flange P/N 24-30210 is undersized. Inspection is to be performed in accordance with Hiller Service Bulletin SB 30-9, Part 2, Subpart B, dated April 3, 1981.

(2) If the inspection (a)(1) determines that the flange thickness is in accordance with type design (specifically 0.090±0.010 inches), no further AD action is required.

(b) After inspection of paragraph (a)(1) and a determination that the flange thickness is undersized prior to further flight

(1) Replace the support column P/N 24-30208 with a like serviceable part which is in compliance with type design; and

(2) Inspect the main rotor mast for damage (nicks, scratches or dents) at the top of the support column location, approximately 12.375 inches from top of upper housing of transmission. Replace each damaged main rotor mast with a like serviceable part.

Note.—The main rotor mast cannot be inspected until the upper controls and support column are disassembled.

Note.—Hiller kits P/N SBK-FH-1100-23-2 and spares stock may contain undersize flight control system support columns.

(c) Verify that any replacement support column is in compliance with type design as noted in paragraph (a)(2) prior to return to service.

Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate helicopters to a base for the accomplishment of inspections and maintenance required by this AD.

Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Engineering and Manufacturing Branch, FAA Western Region.

Manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 553(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to: Hiller Aviation, 2075 West Scranton Avenue, Porterville, California 93275.

These documents may also be examined at:

FAA Western Region Office, Room 6W14, 15000 Aviation Boulevard, Hawthorne, California 90261.

and at:

FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. 20591.

An historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C. and at FAA Western Region Office.

This amendment becomes effective May 11, 1981.

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

Note.—The FAA has determined that this regulation is an emergency regulation under the President's memorandum of January 29, 1981 and an emergency regulation that is not

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

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued Los Angeles, Calif., on April 23, 1981.

John D. Mattson,

Director, FAA Western Region.

[FR Doc. 81-13447 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 78-ASW-53; Amdt. 39-4032]

Airworthiness Directives; Bell Models 206L and 206L-1 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to Bell Models 206L and 206L-1 helicopters by requiring inspection and modification of all P/N 206-023-119 horizontal stabilizers. The amendment is needed to prevent possible failure of the horizontal stabilizer which could result in loss of the helicopter.

DATES: Effective date of the AD is May 11, 1981. Compliance schedule—As prescribed in body of AD.

ADDRESSES: Bell Service information may be obtained from Product Support Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101.

These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Tom Dragset, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-4911, extension 517.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3358 (43 FR 56647), AD 78-24-06, which currently requires inspection and modification of certain dash number horizontal stabilizers on certain serial number Bell Models 206L and 206L-1 helicopters. After issuing Amendment 39-3358, the FAA has determined that additional Model 206L and 206L-1 helicopters and all dash number horizontal stabilizers should be inspected and modified. There have been three recent reports of left-hand horizontal stabilizers on 206L and 206L-1 helicopters cracking chordwise along the inserts on the upper side. These cracks were on stabilizers with 1,503, 1,725, and 3,200 hours. Two of these stabilizers separated from the aircraft. The cracks originated and progressed along the inserts under the flange of the support that attaches the stabilizer to the tail boom. Therefore, the FAA is amending Amendment 39-3358 by requiring inspection and modification of all P/N 206-023-119 horizontal stabilizers on Bell Models 206L and 206L-1 helicopters.

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3358 (43 FR 56647), AD 78-24-06, as follows:

(1) By revising the applicability paragraph to read:

Bell: Applies to Bell Models 206L and 206L-1 helicopters, certificated in all categories (Airworthiness Docket No. 78-ASW-53).

(2) By revising the compliance statement to read: Compliance required as indicated, unless previously accomplished. To prevent possible failure of the horizontal stabilizer, P/N 206-023-119, all dash numbers, accomplish the following:

(3) By revising paragraph (a) to read:

Within the next 10 hours' time in service after the effective date of this AD, modify the left and right upper stabilizer supports, P/N 206-023-100-009 and -010, respectively, in accordance with Bell Helicopter Textron Service Bulletin 206L-78-3 dated October 23, 1978, or Bell Helicopter Textron Alert Service Bulletin 206L-80-16 dated November 17, 1980, or FAA approved equivalent, so that the critical area can be checked.

This amendment becomes effective May 11, 1981.

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

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

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on April 20, 1981.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 81-13734 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-NW-15-AD; Amdt. No. 39-4110]

Airworthiness Directives; Boeing Model 707/720 Series Airplanes Prior to Line Number 885

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On March 6, 1981, the FAA issued a telegraphic Airworthiness Directive, AD T81-06-51, to all known operators of Boeing Model 707/720 series airplanes, effective upon receipt, which required a one-time visual inspection of the wing station 733 production brake rib lower outboard and inboard chord for cracks. This action was necessary because a 21 inch lopg crack was found in the aft lower outboard wing splice rib chord which resulted in degradation of the structural capability of the wing below fail-safe

regulatory requirements. The results of the inspection uncovered six rib chords with small cracks none of which seriously compromised the strength of the wing. This AD is hereby published in the **Federal Register** to make it effective to all persons.

DATES: Effective date May 18, 1981. This AD was effective earlier to all recipients of the telegraphic AD T81-06-51 dated March 6, 1981. Initial Compliance is within 75 hours time-in-service unless accomplished since January 1, 1980.

ADDRESSES: The service bulletin and document specified in this Airworthiness Directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington, 98124. These documents may be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington, 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Roger D. Anderson, Airframe Branch, ANW-120S, Seattle Area Aircraft Certification Office, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, Telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: During routine inspection one operator recently found a 21 inch long crack in the aft lower outboard wing splice rib chord at wing station 733. The crack ran from the sixth bolt hole forward of the rear spar to the twentieth hole. This was the first report of cracks further forward than the most aft four holes. Cracks of this length degrade the structural capability of the wing below fail-safe regulatory requirements and could result in the loss of the outboard wing panel.

The results of one-time visual inspections which were required by the telegraphic AD T81-06-51 revealed only small cracks, which did not seriously degrade structural strength. Inspection reports were received for approximately 200 airplanes involving about 30 operators with six cracks detected. Continued normal inspection in accordance with D6-44860 (Supplemental Inspection Document) should allow timely detection of such cracks and avoid the necessity for a continuing AD inspection procedure. Only aircraft prior to production line number 885 are affected.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 3913 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Boeing Model 707/720 series airplanes, certificated in all categories, prior to line number 885. To assure continued structural integrity of the outboard wing, accomplish the following within the next 75 hours time-in-service unless accomplished since January 1, 1980:

1. Perform a one-time visual inspection of the wing station 733 production break in accordance with Boeing Service Bulletin A3308 Rev. 1 dated March 6, 1981.

2. After inspection, spray the area with BMS 3-23 organic corrosion inhibitor or equivalent.

3. Parts found cracked must be repaired in accordance with Boeing Service Bulletin A3308 or replaced prior to further flight except that airplanes may be flown to a maintenance base for repairs or replacement in accordance with FAR 21.197 and 21.199 with prior approval of the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Region.

4. Equivalent inspections and repairs may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Region.

Note.—Close visual inspection of the forward and aft inboard and outboard lower chords in accordance with D6-44860 (Supplemental Inspection Document) is an approved alternate means of compliance with Paragraph 1 above.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108. This amendment becomes effective May 18, 1981, and was effective earlier to those recipients of telegraphic AD T81-06-51 dated March 6, 1981.

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

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

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on April 28, 1981.

Jonathan Howe,

Acting Director, Northwest Region.

[FR Doc. 81-13780 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-WE-36-AD; Amdt. 39-4109]

Airworthiness Directives; McDonnell Douglas Model DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires modification of the left and right overwing (No. 3 door) evacuation slide or slide/raft packs and container assemblies installed on McDonnell Douglas Model DC-10 series airplanes. This AD is needed to insure that the inflation system of the evacuation slide or slide/raft is initiated automatically. Non-automatic operation could result in an increase in the time required to evacuate an airplane in an emergency.

DATES: Effective date June 12, 1981. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Gilbert L. Thompson, Aerospace Engineer, Systems and Equipment Branch, ANW-130L, Federal Aviation Administration, Northwest Region, Los Angeles Area Aircraft Certification Office, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, telephone (213) 536-6387.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal

Aviation Regulations to include an Airworthiness Directive (AD) to require modification of the slide or slide/raft container on McDonnell Douglas Model DC–10 series airplanes was published in the **Federal Register** on August 25, 1980, (45 FR 56351). The proposal was prompted by reports noting the failure of emergency evacuation devices to inflate automatically on McDonnell Douglas Model DC–10 series airplanes, which could result in extended evacuation time. Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires modification of the evacuation system assemblies and slide or slide/raft container assemblies on McDonnell Douglas DC–10 series airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all comments received in response to the Notice of Proposed Rule Making (NPRM).

Only two comments were received. Both commenters questioned the justification for the AD considering the service experience of the DC–10 fleet. As noted in the NPRM, the instances where the inflation system was not initiated automatically occurred during production tests. However, such occurrences were easily repeatable and could not be attributed to design changes initiated subsequent to original certification. Therefore, the entire fleet must be considered suspect. Also, since issuance of the NPRM, Pan American World Airways, Flight 99, DC–10–30, at London, England, on September 16, 1980, during an emergency evacuation subsequent to an aborted takeoff, experienced a failure of the No. 3L door evacuation system to inflate automatically. This was DC–10 Fuselage No. 167 delivered on June 16, 1975. In light of the existing evidence, the FAA feels the proposed modification is justified.

One of the above commenters also felt that the compliance time should be adjusted, based upon its current and expected utilization, to four years. The FAA disagrees. In view of the elapsed time required for completion of the modification, the DC–10 utilization rate, and safety considerations, the 3-year compliance time is not considered to be overly restrictive.

It is estimated that 283 U.S. registered aircraft will be affected by this AD. The total cost impact to modify these airplanes is estimated to be $124,500. Of that cost, $40,300 is material cost, and $84,200 is labor cost to perform the modification.

Adoption of the Amendment

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

McDonnell Douglas: Applies to McDonnell Douglas Model DC–10–10, –10F –30, –30F, and –40 series airplanes certificated in all categories utilizing the following slide or slide/raft assemblies at the No. 3 door:

Manufacturer	Part No.
Left-Hand Door	
Sargent Industries, Pico Division	5LD230500–112, 5LD230500–114, 5WD230500–101, 5WD230500–101 (DAW95), 5WD230500–201, 5WD230500–201 (DAW95), 5WD230500–401, 5WD230500–401 (DAW95).
Air Cruisers Company	24D29220–3, 24D30051–11, 24D30051–11 (DAW98), 24D30051–13 (DAW98), 24D30051–51, 24D30051–53 (DAW98), 24D30051–91.
Right-Hand Door	
Sargent Industries, Pico Division	5LD230600–112, 5LD230600–114, 5WD230600–101, 5WD230600–101 (DAW95), 5WD230600–201, 5WD230600–201 (DAW95), 5WD230600–401, 5WD230600–401 (DAW95).
Air Cruisers Company	24D29220–4, 24D30051–21, 24D30051–21 (DAW98), 24D30051–23 (DAW98), 24D30051–61, 24D30051–63 (DAW98), 24D30051–101.

Compliance is required as indicated unless already accomplished.

To prevent improper deployment of No. 3 door slide or slide/raft, accomplish the following:

At the next slide or slide/raft assembly overhaul after the effective date of this AD, but in no case exceeding three years from the effective date of this AD, unless already accomplished, modify the affected evacuation system assemblies and container assembly, Douglas P/N AWD7446–503, in accordance with Part 2 of Douglas Service Bulletin No. 25–278 dated March 7, 1980.

Alternate methods of compliance may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60).

These documents also may be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 15000 Aviation Boulevard, Hawthorne, California 90261, Room 6W14.

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

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), and will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, since it involves few, if any, small entities. A final regulatory evaluation has been prepared for this regulation, has been placed in the regulatory docket, and summarized earlier in this rule. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT".

This regulation is a final order of the Administrator as defined by Section 1005 of the Federal Aviation Act of 1958, as amended. As such it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on April 28, 1981.

Jonathan Howe,

Acting Director, Northwest Region.

[FR Doc. 81-13781 Filed 5-6-81; 8:45 am]

BILLING CODE 4920-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWE-5]

Alteration of Control Zone; Miramar, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of the Miramar, California, Control Zone by realigning the southernmost boundary of the present control zone. This would effectively reduce the control zone in that area.

EFFECTIVE DATE: June 11, 1981.

FOR FURTHER INFORMATION CONTACT:
Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536–6182.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to decrease the area encompassed by the Miramar Control Zone. The rule change is minor in nature and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure are unnecessary and the rule may be made effective in less than 30 days.

The Rule

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) amends the description of the Miramar, California, Control Zone by excluding a portion of the control zone along the southern boundary. Part 71 of the Federal Aviation Regulations (14 CFR Part 71) was republished in the **Federal Register** on January 2, 1981 (46 FR 353).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 353) is amended, effective 0901 G.m.t., June 11, 1981, as follows:

Under § 71.171:

Miramar, California

Within a 5-mile radius of NAS Miramar (latitude 32°52'30" N, longitude 117°08'15" W) and within 2 miles either side of the NAS Miramar TACAN 078° radial extending from the 5-mile radius zone to 12 miles E of the TACAN, excluding the portion south of a line from latitude 32°50'00" N, longitude 117°04'10" W, to latitude 32°50'00" N, longitude 117°10'10" W, to latitude 32°50'30" N, longitude 117°13'00" W.

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

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California on April 27, 1981.

John D. Mattson,

Director, Western Region.

[FR Doc. 81-13736 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWE-14]

Alteration of Control Zone; Point Mugu, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of the Point Mugu, California Control Zone by adding the description of the Oxnard, California Control Zone. This action will effectively provide air traffic control service when the Oxnard Tower is not in operation.

EFFECTIVE DATE: May 17, 1981.

FOR FURTHER INFORMATION CONTACT:
Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; Telephone: (213) 536–6182.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to provide air traffic control service when the Oxnard Tower is not staffed. The rule change is minor in nature and does not impose any additional burden on any person. It will, however, provide air traffic service to all users including scheduled commuter operations. In view of the foregoing, notice and public procedure are unnecessary and the rule may be made effective in less than 30 days.

The Rule

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) amends the description of the Point Mugu, California Control Zone including the description of the Oxnard, California Control Zone within the Point Mugu, California Control Zone. Part 71 of the Federal Aviation Regulations (14 CFR Part 71) was republished in the **Federal Register** on January 2, 1981 (46 FR 353).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 353) is amended, effective 0901 GMT, May 17, 1981, as follows:

Under § 71.171:

Point Mugu, California

Following * * * "to the 252° radial" * * * add: "; within a 5-mile radius of Oxnard Airport (latitude 34°12'02"N., longitude 119°12'10"W.) and within 2 miles each side of the Oxnard Runway 25 localizer east course extending from the 5-mile radius zone to 2 miles east of the outer marker; * * *."

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

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California on April 27, 1981.

John D. Mattson,

Director, Western Region.

[FR Doc. 81-13737 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-SO-54]

Designation of Control Zone, Bartow, Fla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates the Bartow, Florida, Control Zone and lowers the base of controlled airspace in the vicinity of the Bartow Municipal Airport from 700 feet AGL to the surface.

EFFECTIVE DATE: 0901 G.m.t., August 6, 1981.

FOR FURTHER INFORMATION CONTACT: Carl F. Stokoe, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On January 15, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Bartow, Florida, Control Zone. The existing nonfederal Airport Traffic Control Tower on the Bartow Municipal Airport meets the requirements for establishment of a part-time control zone with irregular hours of operation. In order to provide the maximum level of safety, designated airspace protection to the surface is required to contain Instrument Flight Rule (IFR) operations near the airport (46 FR 3544). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections to the proposal were received.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the Bartow, Florida, Control Zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171, Subpart F, of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (46 FR 455) is further amended, effective 0901 G.m.t., August 6, 1981, as follows:

Bartow, Florida

" " " Within a five-mile radius of Bartow Municipal Airport (Lat. 27°56'36"N., Long. 81°47'03"W.); within 1.5 miles each side of the Lakeland VORTAC 103° radial, extending from the five-mile radius zone to eight miles east of the VORTAC; excluding the area within a one-mile radius of Cypress Gardens Airport (Lat. 27°57'35"N., Long. 81°42'00"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a major rule under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This action involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Georgia, on April 29, 1981.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 81-13777 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-SO-4]

Alteration of Control Zone and Transition Area, Asheville, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Asheville, North Carolina, Control Zone and Transition Area by correcting the airport name to Asheville Regional Airport. It also alters the Transition Area by designating a basic radius around the airport.

EFFECTIVE DATE: 0901 G.m.t., July 14, 1981.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On Thursday, February 12, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a 9.5-mile radius around the Asheville Regional Airport. With this designation, the 700-foot Transition Area would coincide with the lateral boundary and floor of a portion of the Asheville Terminal Radar Service Area (TRSA). The additional airspace is necessary to provide air traffic control service, also called Stage III service, at low altitudes near the airport.

Since the airport name has been changed from Asheville Municipal to Asheville Regional Airport, it is necessary to correct the Control Zone and Transition Area descriptions to reflect the change (46 FR 12001). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations lowers the base of controlled airspace from 1200 to 700 feet AGL east and west of the Asheville Regional Airport by designating a 9.5-mile radius around the airport. This amendment also corrects the airport name in the Control Zone and Transition Area description.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181, Subpart G (46 FR 540) and § 71.171, Subpart F (46 FR 455), of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (and amended) are further amended, effective 0901 G.m.t., July 14, 1981, as follows:

Asheville, North Carolina (Transition Area)

"* * * Within 7 miles east and west * * *" is deleted and "* * * within a 9.5-mile radius of Asheville Regional Airport (Lat. 35°26'04"N., Long. 82°32'25"W.); within 7 miles east and west * * *" is substituted therefor.

Asheville, North Carolina (Control Zone)

"* * * Asheville Municipal Airport * * *" is deleted and "* * * Asheville Regional Airport * * *" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a major rule under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This action involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Georgia, on April 28, 1981.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 81-13738 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-SO-3]

Alteration and Redesignation of Transition Areas, Charlotte and Waxhaw, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Charlotte, North Carolina Transition Area by revoking an unnecessary extension, reducing another and increasing the basic radius around Douglas Municipal Airport and Bryant Field. This rule also designates the Waxhaw, North Carolina, Transition Area.

EFFECTIVE DATE: 0901 G.m.t., June 29, 1981.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On Thursday, February 12, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to increase the basic radius of the 700-foot transition area from 8.5 to 12 miles around Douglas Municipal Airport. With this designation, the transition area would coincide with the lateral boundary and floor of a portion of the Charlotte Terminal Radar Service Area (TRSA). The additional airspace is necessary in order to provide air traffic control service, also called Stage III service, at low altitudes near the airport. Due to changes in instrument flight procedures at Douglas Municipal Airport, the northeast extension is no longer needed and the south extension can be reduced. The reduction would separate the airspace associated with the Jaars-Townsend Airport from the Charlotte Transition Area which necessitates the designation of the Waxhaw Transition Area.

Increasing the basic radius from 6.5 to 8.5 miles around Bryant Field, formerly Rock Hill Municipal Airport, would designate adequate controlled airspace to accommodate the NDB Runway 1 standard instrument approach procedure. The procedure would be supported by a nonfederal nondirectional radio beacon which is proposed for establishment on the airport. These changes are necessary in order to provide the required controlled airspace to protect aircraft flight operations (46 FR 12003). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (1) lowers the base of controlled airspace from 1,200 to 700 feet AGL north and east of Douglas Municipal Airport, (2) redesignates an extension south of the airport, (3) eliminates an extension northeast of the airport, (4) changes the Rock Hill Municipal Airport name to Bryant Field, (5) lowers the base of controlled airspace from 1,200 to 700 feet AGL south of Bryant Field, (6) removes the designated airspace centered on the Jaars-Townsend Airport from the Charlotte description, and (7) designates the Waxhaw, North Carolina, Transition Area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181, Subpart G, of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (and amended) (46 FR 540) is further amended, effective 0901 G.m.t., June 29, 1981, as follows:

Charlotte, North Carolina

The present description is deleted and "* * *That airspace extending upward from 700 feet above the surface within a 12-mile radius of Douglas Municipal Airport (Lat. 35°12'53" N., Long. 80°56'18" W.); within 5 miles each side of Fort Mill VORTAC 005° radial, extending from the 12-mile radius area to 1 mile north of the VORTAC; within 9.5 miles northwest and 5 miles southeast of Charlotte ILS localizer southwest course, extending from the 12-mile radius area to 19 miles southwest of TRYON LOM; within an 8.5-mile radius of Bryant Field (Lat. 34°59'05" N., Long. 81°03'30" W.); within a 6.5-mile radius of Gastonia Municipal Airport (Lat. 35°12'00" N., Long. 81°09'05" W.) * * *" is substituted therefor.

Waxhaw, North Carolina

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Jaars-Townsend Airport (Lat. 34°51'50" N., Long. 80°44'50" W.).

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a major rule under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This action involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Georgia, on April 27, 1981.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 81-13735 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-SO-8]

Alteration of Transition Area, Greenville, S.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Greenville, South Carolina, Transition Area by lowering the base of controlled airspace in the vicinity of the Donaldson Center Airport from 1,200 to 700 feet AGL.

EFFECTIVE DATE: 0901 G.m.t., July 31, 1981.

FOR FURTHER INFORMATION CONTACT:
Harlen D. Phillips, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On Monday, March 23, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Greenville, South Carolina, Transition Area. This action provides controlled airspace protection of Instrument Flight Rule (IFR) operations at the Donaldson Center Airport. The existing Donaldson Center Nondirectional Radio Beacon (nonfederal) would support the NDB RWY 4 instrument approach procedure. The operating status of the NDB is being changed from VFR to IFR and the airport is being changed from private use to public use (46 FR 18049). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. In response to the Notice, the Air Transport Association of America submitted an objection based on nonradar IFR airspace conflicts at Donaldson Center, Greenville-Downtown and Greenville-Spartanburg Airports.

Air traffic control service in the Greenville terminal area is conducted primarily in a radar environment. Nonradar separation is provided for aircraft when climbing or descending below the radar minimum vectoring altitude. Service can be safely provided at Donaldson Center Airport with minimal impact upon operations at Greenville-Spartanburg and Greenville-Downtown Airports. Missed approach and holding procedures can be adjusted to lessen the interaction time when the volume of aircraft activity warrants such action.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations lowers the base of controlled airspace from 1,200 to 700 feet AGL around the Donaldson Center Airport.

The operating status of the Donaldson Center nondirectional radio beacon is changed from VFR to IFR and the Donaldson Center Airport is changed from private use to public use.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181, Subpart G, of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (and amended) (46 FR 540) is further amended, effective 0901 G.m.t., July 31, 1981, by adding the following:

Greeville, South Carolina

* * * Within an 8.5-mile radius of Donaldson Center Airport (lat. 34°45'29" N., long. 82°22'35" W.); within 3 miles each side of the 210° bearing from Donaldson Center RBN (lat. 34°44'35" N., long. 82°23'31" W.), extending from the 8.5-mile radius area to 8.5 miles south of the RBN * * *.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a major rule under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This action involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Georgia, on April 28, 1981.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 81-13778 Filed 5-6-81; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 95

[Docket No. 21706; Amdt. No. 95-297]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: April 30, 1981.

FOR FURTHER INFORMATION CONTACT:
Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 GMT April 30, 1981.

(Secs. 307 and 1110, Federal Aviation Act of

1958 (49 U.S.C. §§ 1348 and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3)]

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore— (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on April 30, 1981.

John S. Kern,

Chief, Aircraft Programs Division.

BILLING CODE 4910-13-M

§95.46 GREEN FEDERAL AIRWAY 6
is added to read:

FROM	TO	MEA
St. Marys, Ak. NDB	Aniak, Ak. NDB	4000
Aniak, Ak. NDB	Sparrevohn, Ak. NDB	6000

§95.50 GREEN FEDERAL AIRWAY 10
is amended to read in part:

FROM	TO	MEA
Elfee, Alas. NDB	Safko INT, Alas.	*5000
Safko INT, Alas.	*Port Heiden, Alas. NDB	**5000
*DOG LEG CD NDB 024° BRG FROM & PND NDB 229° BRG FROM		
Port Heiden, Alas. NDB	Width INT, Alas.	9000
Width INT, Alas.	Woody Island, Alas. NDB	*9000

§95.1001 DIRECT ROUTES–U.S.
is amended to delete:

FROM	TO	MEA
Tulsa, Okla. VOR	Davis, Okla. VOR	*3500 MAA–12000

§95.1001 DIRECT ROUTES - U.S.
is added to read:

FROM	TO	MEA
Albuquerque, N.M. VORTAC	Cylow INT, N.M.	*14000 MAA–27000
*11600–MOCA		
Cylow INT, N.M.	Holloman, N.M. VOR	*12500 MAA–27000
*11700–MOCA		

§95.1001 DIRECT ROUTES–U.S.
is added to read:

FROM	TO	MEA
Ellan INT, N.Y.	*INT SAX R034/ALB R205	6000
*5500–MOCA		
INT SAX R034/ALB R205	Acove, N.Y. VORTAC	5500
Acove INT, N.Y.	Albany, N.Y. VORTAC	*5500
*4000–MOCA		

§95.1001 DIRECT ROUTES–U.S.
is amended to read in part:

FROM	TO	MEA
Kennebunk, Me. VORTAC	U.S. Canadian Border Via YJN 147R/ENE 331R	*15000 MAA–31000
*6300–MOCA		

§95.6003 VOR FEDERAL AIRWAY 3
is amended to read in part:

FROM	TO	MEA
Presque Isle, ME VOR	U.S. Canadian Border	*6000
*3500–MOCA		

§95.6006 VOR FEDERAL AIRWAY 6
is amended to delete:

FROM	TO	MEA
Omaha, Neb. VOR Via S alter.	Enjoy INT, Iowa Via S alter.	2800
Enjoy INT, Iowa *2700–MOCA	Witts INT, Iowa	*3600
Witts INT, Iowa Via S alter.	Des Moines, Iowa VOR Via S alter.	2700

§95.6012 VOR FEDERAL AIRWAY 12
is amended to read in part:

FROM	TO	MEA
Moser INT, Tex. Via S alter.	*Sider INT, Tex. Via S alter.	6000
*9500–MRA		

§95.6013 VOR FEDERAL AIRWAY 13
is amended to delete:

FROM	TO	MEA
Lamoni, Iowa VOR Via W alter.	Des Moines, Iowa VOR Via W alter.	3000

§95.6030 VOR FEDERAL AIRWAY 30
is amended to read in part:

FROM	TO	MEA
Raine INT, Mich. Via S alter.	Pullman, Mich. VOR Via S alter.	2200

§95.6045 VOR FEDERAL AIRWAY 45
is amended to read in part:

FROM	TO	MEA
Varys INT, OH *2000–MOCA	Waterville, OH VOR	*4000

§95.6045 VOR FEDERAL AIRWAY 45
is amended to read in part:

FROM	TO	MEA
Seeks INT, Mich. *4300–MRA **2400–MOCA	*Currs INT, Mich.	**3500
Currs INT, Mich. *4200–MRA **2400–MOCA	*Ailes INT, Mich.	**3500
Ailes INT, MICH *2400–MOCA	Alpena, Mich. VOR	*3500

§95.6077 VOR FEDERAL AIRWAY 77
is amended to read in part:

FROM	TO	MEA
Wichita, KS VOR	Kange INT, KS	3400
Kange INT, KS *5000–MRA	*Floss INT, KS	3000

§95.6078 VOR FEDERAL AIRWAY 78
is amended to read in part:

FROM	TO	MEA
Pellston, Mich. VOR *3500–MRA	*Robbo INT, Mich.	2600

§95.6095 VOR FEDERAL AIRWAY 95
is amended to read in part:

FROM	TO	MEA
Baloo INT, Colo.	Balif INT, Colo.	
	NE-bound	16200
	SW-bound	15000
Balif INT, Colo.	Trees INT, Colo.	16200

§95.6095 VOR FEDERAL AIRWAY 95
is amended to read in part:

FROM	TO	MEA
Zeans INT, Colo.	Lazon INT, Colo.	16100
Lazon INT, Colo.	Powes INT, Co.	
	S-bound	16100
	N-bound	15000
Powes INT, Co.	*Gunnison, Colo. VOR	
	S-bound	16100
	N-bound	12500

*12500-MCA Gunnison VOR, S-bound
*13000-MCA Gunnison VOR, NE-bound

§95.6133 VOR FEDERAL AIRWAY 133
is amended to read in part:

FROM	TO	MEA
Traverse City, Mich. VOR	Escanaba, Mich. VOR	2900

§95.6157 VOR FEDERAL AIRWAY 157
is amended to read in part:

FROM	TO	MEA
Ocala, Fla. VOR	Gainesville, Fla. VOR	1700

§95.6159 VOR FEDERAL AIRWAY 159
is amended to read in part:

FROM	TO	MEA
Ocala, Fla. VOR	Gainesville, Fla. VOR	
Via E alter.	Via E alter.	1700

§95.6193 VOR FEDERAL AIRWAY 193
is amended to read in part:

FROM	TO	MEA
White Cloud, Mich. VOR	Traverse City, Mich. VOR	3500

§95.6215 VOR FEDERAL AIRWAY 215
is amended to read in part:

FROM	TO	MEA
Soles INT, Mich.	Muskegon, Mich. VOR	*3000

*2300-MOCA

§95.6232 VOR FEDERAL AIRWAY 232
is amended to read in part:

FROM	TO	MEA
Broadway, NJ VOR/DME	Lissa INT, NY	2500
Lissa INT, NY	La Guardia, NY VOR	2700

§95.6244 VOR FEDERAL AIRWAY 244
is amended to read in part:

FROM	TO	MEA
Gunnison, Colo. VOR	Dufel INT, Colo.	
	E-bound	16000
	W-bound	12000
Dufel INT, Colo.	*Flood INT, Colo.	16000

*10000-MRA

§95.6275 VOR FEDERAL AIRWAY 275
is amended to read in part:

FROM	TO	MEA
Dayton, OH VOR	Kline INT, OH	*5500

*2600-MOCA

§95.6275 VOR FEDERAL AIRWAY 275
is amended to read in part:

FROM	TO	MEA
Motor INT, Mich.	Salem, Mich. VOR	*3000

*2300-MOCA

§95.6280 VOR FEDERAL AIRWAY 280
is amended to read in part:

FROM	TO	MEA
Moser INT, Tex.	*Sider INT, Tex.	6000

*9500-MRA

§95.6287 VOR FEDERAL AIRWAY 287
is amended to read in part:

FROM	TO	MEA
Cavo INT, WA	*Brodo INT, WA	**5000
*5500-MRA		
*6400-MOCA		
Brodo INT, WA	Lolal INT, WA	*5000

*4400-MOCA

§95.6337 VOR FEDERAL AIRWAY 337
is amended to read in part:

FROM	TO	MEA
Mt. Pleasant, Mich. VOR	White Clould, Mich. VOR	*3000

*2400-MOCA

§95.6388 VOR FEDERAL AIRWAY 388
is added to read:

FROM	TO	MEA
Kenai, Alas. VOR	Anchorage, Alas. VOR	*2000

*1400-MOCA

§95.6400 VOR FEDERAL AIRWAY
is amended to read in part:

U.S. Canadian Border	Presque Isle, ME VOR	*6000

*4000-MOCA

§95.6421 VOR FEDERAL AIRWAY 421
is amended to read in part:

FROM	TO	MEA
Zeans Int., Colo.	Lazon Int. Colo.	16100
Lazon Int., Colo	Powes Int., Colo.	
	S-bound	16100
	N-bound	15000
Wendt Int., Co.	Cazuu Int., Colo.	
	S-bound	15000
	N-bound	17000
Cazuu Int., Colo.	Jerro Int., Colo.	*17000

*16300-MOCA

§95.7006 JET ROUTE NO. 6 is amended to delete:

FROM	TO	MEA	MAA
Big Sur, Calif. VORTAC	Zonal Int., Calif.	18000	45000
Zonal Int., Calif.	Palmdale, Calif. VORTAC	20000	45000

§95.7065 JET ROUTE NO. 65 is amended to read in part:
is amended to read in part:

FROM	TO	MEA	MAA
Red Bluff, Ca VORTAC	Klamath Falls, Or. VORTAC	#18000	45000

#MEA is established with a gap in navigation signal coverage

§95.7141 JET ROUTE NO. 141 is added to read:

FROM	TO	MEA	MAA
U.S. Mexican Border	Keylo INT, Tx	#18000	#45000
Keylo Int., Tx	El Paso, Tx., VORTAC	18000	45000

§95.7177 JET ROUTE NO. 177 is amended by adding:

FROM	TO	MEA	MAA
Hobby, Tx VORTAC	Humble, Tx VORTAC	18000	45000

§95.7501 JET ROUTE NO. 501 is amended to delete:

FROM	TO	MEA	MAA
Tatoosh, WA VORTAC	Port Hardy, BC, Canada VORTAC	#18000	#45000

#For that airspace over U.S. territory

2. By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM	
V-10 is amended to delete:			
Lawson INT, Mo. Via N alter.	Kirksville, Mo. VOR Via N alter.	53	Kirksville
V-104 is added to read:			
Montpelier VT VOR	Berlin NH VOR	39	Montpelier
Berlin NH VOR	Ansyn INT, ME	25	Berlin

[FR Doc. 81-13779 Filed 5-6-81; 8:45 am]
BILLING CODE 4910-13-C

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 401

Amendment of Rules to Require Water Conservation Procedures for New Water Supply Projects

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: The Delaware River Basin Commission has amended its Rules of Practice and Procedure so as to establish new conservation requirements for future water supply projects. The amendments apply to industrial, municipal and agricultural water users in the Delaware River Basin who propose water supply projects involving withdrawal from ground or surface waters in excess of million gallons per day. Applications for approval of such projects, submitted to the Commission under Section 3.8 of the Delaware River Basin Compact, must include and describe water conserving practices and technologies designed to minimize the use of water.

A water conservation policy was included in the Commission's Comprehensive Plan in 1976 (Resolution 76–17). The policy requires maximum feasible efficiency in the use of water by new users, and the eventual application of water conserving practices and technologies by existing users throughout the basin. The amendment that is the subject of this notice is in furtherance of that policy.

EFFECTIVE DATE: September 1, 1981.

ADDRESS: Copies of the Commission's Administrative Manual are available from Delaware River Basin Commission, P.O. Box 7360, West Trenton, N. J. 08628.

FOR FURTHER INFORMATION CONTACT: W. Brinton Whitall, Secretary, Delaware River Basin Commission, Post Office Box 7360, West Trenton, New Jersey 08628 609–883–9500.

SUPPLEMENTARY INFORMATION: On July 30, 1980 the Commission held a public hearing in West Trenton, New Jersey, on the amendment. Notice of the hearing, including the text of the proposed amendment, appeared at 45 FR 49323 (July 24, 1980), and was widely distributed to public agencies, civic groups and water users in the Delaware Basin area of Pennsylvania, New Jersey, New York and Delaware. The draft amendment as originally proposed was modified as a result of public comment received at the hearing. Significant changes are:

(1) Limiting the applicability of the amendment to water supply projects in excess of one million gallons per day;

(2) Including agricultural irrigation projects within the scope of the amendment;

(3) Referencing public utility regulations as a possible limitation on conservation programs prepared by public or private water purveyors; and,

(4) Requiring that water shortage contingency plans prepared by public or private water purveyors be coordinated with applicable statewide water shortage contingency plans.

The text of the Commission's Administrative Manual—Part II, *Rules of Practice and Procedure*, is relevant context for the amendment that is the subject of this notice. The same text appears at 18 CFR Part 401.

The Commission's *Rules of Practice and Procedure*, 18 CFR Part 401, are amended as follows:

§§ 401.38—401.45 [Redesignated as §§ 401.39—401.46]

1. Amend Subpart C by redesignating §§ 401.38 through 401.45 as §§ 401.39 through 401.46.

2. Amend Subpart C by addition of a new § 401.38 entitled, *Water Supply Projects—conservation Requirements*, to read as follows:

§ 401.38 Water supply projects—Conservation requirements.

Maximum feasible efficiency in the use of water is required on the part of water users throughout the basin. Effective September 1, 1981 applications under Section 3.8 of the Compact for new water withdrawals subject to review by the Commission shall include and describe water conserving practices and technology designed to minimize the use of water by municipal, industrial and agricultural users, as provided in this section.

(a) Applications for approval of new withdrawals from surface or ground water sources submitted by a municipality, public authority or private water works corporation whose total average withdrawals exceed one million gallons per day shall include or be in reference to a program prepared by the applicant consisting of the following elements:

(1) Periodic monitoring of water distribution and use, and establishment of a systematic leak detection and control program;

(2) Use of the best practicable water conserving devices and procedures by all classes of users in new construction or installations, and provision of information to all classes of existing users concerning the availability of water conserving devices and procedures;

(3) A contingency plan including use priorities and emergency conservation measures to be instituted in the event of a drought or other water shortage condition. Contingency plans of public authorities or private water works corporations shall be prepared in cooperation with, and made available to, all municipalities in the area affected by the contingency plan, and shall be coordinated with any applicable statewide water shortage contingency plans.

(b) Programs prepared pursuant to paragraph (a) of this section shall be subject to any applicable limitations of public utility regulations of the signatory party in which the project is located.

(c) Applications for approval of new industrial or commercial water withdrawals from surface or ground water sources in excess of an average of one million gallons per day shall contain (1) a report of the water conserving procedures and technology considered by the applicant, and the extent to which they will be applied in the development of the project; and (2) a contingency plan including emergency conservation measures to be instituted in the event of a drought or other water shortage. The report and contingency plan estimate the impact of the water conservation measures upon consumptive and non-consumptive water use by the applicant.

(d) Applications for approval of new agricultural irrigation water withdrawals from surface or ground water sources in excess of one million gallons per day shall include a statement of the operating procedure or equipment to be used by the applicant to achieve the most efficient method of application of water and to avoid waste.

(e) Reports, programs and contingency plans required under this section shall be submitted by the applicant as part of the permit application to the state agency having jurisdiction over the project, or directly to the Commission in those cases where the project is not subject to the jurisdiction of a state agency. State agencies having jurisdiction over a project that is subject to the provisions of this section shall determine the adequacy and completeness of the applicant's compliance with these requirements and

shall advise the Commission of their findings and conclusions.

W. Brinton Whitall,

Secretary.

April 27, 1981.

[FR Doc. 81-13386 Filed 5-6-81; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 57

[DoD Directive 6060.xx]

Hearings Required by the Education for all Handicapped Children Act of 1975

AGENCY: Office of the Secretary of Defense.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of the Secretrary of Defense issued a directive-type memorandum pending issuance of a proposed and final rule to implement the Education for All Handicapped Children Act of 1975 and the Defense Dependents' Education Act of 1978. The memorandum establishes procedural rules which are set forth below to govern impartial due process hearings and which are now in effect for use and guidance by the Office of the Secretary of Defense and the Military Departments.

EFFECTIVE DATE: April 27, 1981. Written comments from the public are solicited and must be received by June 1, 1981. Comments will be considered in the preparation of the proposed and final rule that will supersede the interim rules set forth below.

ADDRESS: Office of General Counsel, Department of Defense, Room 3E980, The Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Paul S. Koffsky, 202-695-3657.

Accordingly, 32 CFR Chapter I is amended by adding a new Part 57 to read as follows:

PART 57—HEARINGS REQUIRED BY THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT OF 1975

Sec.

Authority: Pub. L. No. 94-142, 20 U.S.C. 1401 et seq. (1976) ("EHA").

§ 57.1 Purpose.

This memorandum is issued to establish adjudicative requirements whereby the parents or guardians of handicapped children are afforded a due process hearing with respect to the free appropriate public education provided such children by DoD in accordance with the EHA and the Defense Dependents' Education Act of 1978, Pub. L. 95-561, 20 U.S.C. 921-932 (Supp. III 1979) ("DDEA").

§ 57.2 Applicability and scope.

The provisions of this memorandum apply to all DoD Components and personnel concerned with DoD overseas schools, including but not limited to regional directors, school principals and teachers; parents and guardians; and children of military and civilian employees eligible to receive instruction from the Department of Defense Dependents Schools (DoDDS).

§ 57.3 Standards and Criteria.

(a) The EHA and DDEA require that handicapped children attending DoD overseas schools be provided a free appropriate public education.

(b) The appropriateness of the education shall be based on a determination of the needs of the individual child and on any policies and procedures that may be established by DoD or DoDDS.

§ 57.4 Administration.

(a) The DoDDS Regional Director with responsibility for the handicapped child whose education is at issue shall be responsible for the hearings conducted under this memorandum.

(b) This memorandum shall be administered to assure that the findings, judgments, and determinations made are prompt, fair, and impartial.

(c) Impartial Hearing Officers shall be appointed by the Assistant Secretary of Defense (Manpower, Reserve Affairs & Logistics) or the Assistant Secretary's designee and shall be attorneys who are independent of DoDDS and members in good standing of the Bar of any state, the District of Columbia or a territory of the United States.

(d) Qualified counsel shall normally appear and represent DoDDS in proceedings conducted under this memorandum. A parent or guardian shall have the right to be represented in such proceedings at no cost to the Government by qualified counsel or a personal representative.

§ 57.5 Mediation.

(a) Mediation shall consist of, but not necessarily be limited to, an informal discussion of the differences between the parties in an effort to resolve those differences. The parents or guardians and the appropriate school officials may attend mediation sessions.

(b) Mediation must be conducted or attempted, or refused in writing by a parent or guardian of the handicapped child whose education is at issue, prior to a request for, or the initiation of, a hearing authorized by this memorandum. Any request by DoDDS for a hearing under this memorandum shall state how this requirement has been satisfied. No stigma may attach to the refusal of a parent or guardian to mediate or to an unsuccessful attempt to mediate.

(c) If mediation has not been refused pursuant to § 57.5(b), the Hearing Officer may order additional efforts at mediation prior to the commencement of a hearing hereunder. Such additional efforts at mediation, however, shall be completed within a period of thirty (30) calendar days of the Hearing Officer's order.

§ 57.6 Practice and Procedure

(a) *Hearing.* (1) Should mediation be refused or otherwise fail to resolve the issues concerning the provision of a free appropriate public education to a handicapped child, including the identification, evaluation or educational placement of the child, the child's parent or guardian or the school principal having jurisdiction over the child may request and shall receive a hearing before a Hearing Officer to resolve the matter. The parents or guardians of a handicapped child whose education is at issue and DoDDS shall be the only parties to a hearing conducted pursuant to this memorandum.

(2) The party seeking the hearing shall submit a written request, in the form of a Petition, setting forth the facts, issues, and proposed relief, to the DoDDS Regional Director who has responsibility for the handicapped child. A copy of the Petition shall be delivered to the opposing party (*i.e.*, the parent or guardian, or, on behalf of DoDDS, the school principal), either in person or by first class mail, postage prepaid. Delivery is complete upon mailing. When DoDDS petitions for a hearing, it shall inform the other parties of the deadline for filing an Answer under § 57.6(a)(3), and shall provide the other parties with a copy of this memorandum.

(3) An opposing party shall submit an Answer to the Petition to the

appropriate Regional Director, with a copy to the Petitioner, within thirty (30) calendar days of receipt of the Petition. The Answer shall be as full and complete as possible, addressing the issues, facts, and proposed relief.

(4) Within ten (10) calendar days after receiving the Petition, the Regional Director shall obtain the assignment of a Hearing Officer, who shall then have jurisdiction over the resulting proceeding. The Regional Director shall promptly forward all pleadings to the Hearing Officer.

(5) The questions for adjudication shall be based on the Petition and the Answer, provided that a party may amend a pleading if the Amendment is filed with the Hearing Officer and received by the other parties at least five (5) calendar days before the hearing.

(6) The Regional Director shall arrange for the time and place of the hearing, and shall provide administrative support.

(7) The purpose of a hearing is to establish the relevant facts necessary to reach a fair and impartial determination of the case. Oral and documentary evidence that is relevant and material may be received. The technical rules of evidence shall be relaxed to permit the development of a full evidentiary record, with the Federal Rules of Evidence serving as a guide.

(8) The Hearing Officer shall be the presiding officer, with judicial powers to manage the proceeding and conduct the hearing. Those powers shall include, but not be limited to, the authority to order an independent evaluation of the child at the expense of DoDDS and to call and question witnesses.

(9) Those normally authorized to attend a hearing shall be the parents or guardians of the child, their counsel or personal representative, the counsel or other representative of DoDDS, the Hearing Officer, and an individual qualified to transcribe or record the proceedings. The Hearing Officer may permit other persons to attend the hearing consistent with the privacy interests of the parents or guardians and the child, provided, however, a parent or guardian has the right to an open hearing upon waiving in writing his or her privacy rights and those of the child.

(10) A verbatim record of the hearing shall be made in written or electronic form and shall become a permanent part of the record, unless each party files a written waiver of such recordation with the Hearing Officer. A copy of the written transcript or electronic recording shall be made available to a parent or guardian upon request and without cost. The Hearing Officer may allow corrections to the written transcript or electronic recording for the purpose of conforming it to actual testimony after adequate notice of such changes is given to all parties.

(11) The Hearing Officer's decision of the case shall be based on the record, which shall include the Petition; the Answer; the written transcript or the electronic recording of the hearing, if any; exhibits admitted into evidence; pleadings or correspondence properly filed and served on all parties; and such other matter as the Hearing Officer may include in the record, provided that such matter is made available to all parties before the record is closed pursuant to § 57.6(a)(13).

(12) The Hearing Officer shall make a full and complete record of a case presented for adjudication.

(13) The Hearing Officer shall decide when the record in a case is closed.

(14) The Hearing Officer shall issue findings of fact and render a decision in a case not later than sixty (60) calendar days after being assigned to the case, unless a discovery request pursuant to § 57.6(b), is pending.

(b) *Discovery.* (1) Full and complete discovery shall be available to parties to the proceeding, with the Federal Rules of Civil Procedure serving as a guide.

(2) If voluntary discovery cannot be accomplished, a party seeking discovery may file a Motion to Accomplish Discovery, provided such Motion is founded on the relevance and materiality of the proposed discovery to the issues. An Order granting discovery shall be enforceable as is an Order compelling testimony or the production of evidence.

(3) A copy of the written or electronic transcription of a deposition taken by DoDDS shall be made available free of charge to the parent or guardian.

(c) *Witnesses; production of evidence.* (1) All witnesses testifying at the hearing shall be advised that it is a criminal offense knowingly and willfully to make a false statement or representation to a department or agency of the United States Government as to any matter within the jurisdiction of that department or agency. All witnesses shall be subject to cross-examination by the parties.

(2) A party calling a witness shall bear the witness' travel and incidental expenses associated with testifying at the hearing. DoDDS shall pay such expenses when a witness is called by the Hearing Officer.

(3) The Hearing Officer may issue an Order compelling the attendance of witnesses or the production of evidence upon his own Motion or, if good cause be shown, upon Motion of a party.

(4) Whenever the Hearing Officer determines that (i) a person has failed to obey an Order to testify or to produce evidence and (ii) such failure is in knowing and willful disregard of the Order, the Hearing Officer shall so certify.

(5) The party or the Hearing Officer seeking to compel testimony or the production of evidence may, upon the certification provided for in § 57.6(c)(4), file an appropriate action in a court of competent jurisidiction to compel compliance with the Hearing Officer's Order.

(6) Pending the Hearing Officer's decision regarding a Motion for an Order to compel testimony or the production of evidence or an action in a court to enforce the Hearing Officer's Order, the Hearing Officer may recess the proceeding.

(d) *Hearing Officer's findings of fact and decision.* (1) The Hearing Officer shall make written findings of fact and shall issue a decision, setting forth the questions presented, the resolution of those questions, and the rationale for the resolution. The Hearing Officer shall file the findings of fact and decision with the appropriate Regional Director, with a copy to each party.

(2) The Regional Director shall forward a copy of the Hearing Officer's findings of fact and decision to the Overseas Dependents Schools National Advisory Panel on the Education of Handicapped Dependents.

(3) The Hearing Officer shall have the authority to impose financial responsibility for placements pursuant to his or her findings of fact and decision.

(4) The findings of fact and decision of the Hearing Officer shall become final unless a Notice of Appeal is filed pursuant to § 57.8(a), of this part DoDDS shall implement a decision as soon as practicable after it becomes final.

§ 57.7 Determination without Hearing.

(a) At the request of a parent or guardian of the handicapped child whose education is at issue, the requirement for a hearing may be waived and the case may be submitted to the Hearing Officer on written documents filed by the parties. The Hearing Officer shall make findings of fact and issue a decision within the period fixed by § 57.6(a)(14) of this part.

(b) DoDDS may oppose a request to waive the hearing. In that event, the Hearing Officer shall rule on the request.

(c) Documents submitted to the Hearing Officer in a case determined without hearing shall comply with § 57.6(a)(7), of this part. Copies of such

documents shall be exchanged between the parties.

§ 57.8 Appeal.

(a) A party may appeal the Hearing Officer's findings of fact and decision by filing a written Notice of Appeal with the Assistant Secretary of Defense (Manpower, Reserve Affairs & Logistics) or the Assistant Secretary's designee within fifteen (15) calendar days of receipt of the findings of fact and decision. The Notice of Appeal must contain the appellant's certification that a copy of the Notice of Appeal has been provided to all other parties.

(b) Within twenty (20) calendar days of filing the Notice of Appeal, the appellant shall submit a written Statement of Issues and Arguments to the Assistant Secretary of Defense (Manpower, Reserve Affairs & Logistics) or the Assistant Secretary's designee, with a copy to the other parties. The other parties shall submit a Reply to the Assistant Secretary of Defense (Manpower, Reserve Affairs & Logistics) or the Assistant Secretary's designee within thirty (30) calendar days of receiving the Statement, with a copy to the appellant.

(c) The Assistant Secretary of Defense (Manpower, Reserve Affairs & Logistics) or the Assistant Secretary's designee shall determine the matter on appeal, including the making of interlocutory rulings, within thirty (30) calendar days of receiving timely filed Replies under section VIII.B, above. The Assistant Secretary of Defense (Manpower, Reserve Affairs & Logistics) or the Assistant Secretary's designee may request oral argument.

(d) The determination of the Assistant Secretary of Defense (Manpower, Reserve Affairs & Logistics) or the Assistant Secretary's designee shall be a final administrative decision and shall be in written form. It shall address the issues presented and set forth a rationale for the decision reached. A determination denying the appeal of a parent or guardian in whole or in part shall state that the parent or guardian has the right under the EHA, 20 U.S.C. 1415(e)(2), to bring a civil action with respect to the matters in dispute in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

(e) No provision of this memorandum or other DoD guidance may be construed as conferring a further right of administrative review. A party must exhaust all administrative remedies afforded by this memorandum before seeking judicial review of a determination made pursuant to this memorandum.

§ 57.9 Publication and indexing of final decisions.

Final decisions in cases arising under this memorandum shall be published and indexed in accordance with the Freedom of Information Act, 5 U.S.C. 552(a)(2)(A), so as to protect the privacy rights of the parents or guardians, and the child.

M. S. Healy,

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

April 30, 1981.

[FR Doc. 81-13860 Filed 5-6-81; 8:45 am]

BILLING CODE 3810-70-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket RM 81-1]

Payment and Refund of Copyright Office Fees; General Provisions

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulations.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is adopting an amendment of § 201.6 of the Copyright Office regulations. The effect of the amendment is to permit the Copyright Office to retain application fees in cases where an application is rejected and to provide that in cases of a mistaken or excess payment, refunds in the amount of $5 or less will be made only on specific request.

EFFECTIVE DATE: June 15, 1981.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, (703) 287-8380.

SUPPLEMENTARY INFORMATION: Under section 708(c) of the Copyright Act of 1976, title 17 of the United States Code, the Register is authorized to deduct all or any part of the registration fee otherwise prescribed by section 708, to cover the administrative costs of processing a refusal to register a claim to copyright under section 410(b). That section authorizes the Register to refuse registration of the claim to copyright when the material deposited does not constitute copyrightable subject matter, or when the claim is invalid for any other reason.

Until now, it has been the policy of the Copyright Office to refund fees submitted for registration purposes when the claim is rejected. However, following a review of this refund policy, the Copyright Office has decided that it should invoke the authority of section 708(c) and deduct the administrative costs of processing section 410(b) rejection cases.

Currently, the income from copyright registration and related fees covers less than 30 percent of the expenditures of the Copyright Office. The Copyright Office does not recoup its operating costs through application fees even in cases where applications are accepted for registration without correspondence. Processing costs in rejection cases are higher since more administrative steps are involved; for example, a letter is written, typed, and mailed. Since the cost of processing any application is greater than $10, we have determined that the reasonable administrative cost of processing a section 410(b) claim is at least $10 for first term or ordinary and supplementary registration, and $6 for a renewal registration claim.

On and after the effective date of this regulation, the Copyright Office will therefore not refund the fee submitted for claims for which registration is refused under section 410(b). The Office will however refund payments made by mistake or in excess of the statutory fee schedule. If the excess amount is higher than $5, the refund will be made without specific request. Amounts of $5 or less will not be refunded except by specific request.

Accordingly, Part 201 of 37 CFR Chapter II is amended by revising § 201.6(c) to read as follows:

§ 201.6 Payment and refund of Copyright Office fees.

* * * * *

(c) *Refunds.* Money remitted to the Copyright Office for original, basic, supplementary or renewal registration will not be refunded if the claim is rejected because the material deposited does not constitute copyrightable subject matter or because the claim is invalid for any other reason. Payments made by mistake or in excess of the statutory fee will be refunded, but amounts of $5 or less will not be refunded unless specifically requested, and refunds of less than $1 may be made in postage stamps.

* * * * *

(17 U.S.C. 702; 708(c))

Dated: April 27, 1981.
David Ladd,
Register of Copyrights.
Approved:
Daniel J. Boorstin,
The Librarian of Congress.
[FR Doc. 81-13644 Filed 5-6-81; 8:45 am]
BILLING CODE 1410-03-M

VETERANS ADMINISTRATION

38 CFR Part 36

New Guaranteed, Insured and Direct Loans for Homes and Condominiums; Increase in Maximum Permissible Interest Rate

AGENCY: Veterans Administration.
ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is increasing the maximum interest rate on guaranteed, insured and direct loans for homes and condominiums. The maximum interest rate is increased because the former interest rate was not sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. The increase in the interest rate will assure a continuing supply of funds for home mortgages; thereby allowing veterans to purchase a home with the assistance of a no downpayment VA loan.

EFFECTIVE DATE: April 13, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans administration, 810 Vermont Ave., NW, Washington, D.C. 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The Administrator is required to establish a maximum interest rate for loans guaranteed, insured or made by the Veterans Administration as he finds the mortage money market demands. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans, the general increase in interest rates charged by lenders on conventional loans, and the results of the bi-weekly Federal National Mortgage Association auctions—have shown that the mortgage money market has become more restrictive. The maximum rate in effect for VA guaranteed loans has not been sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. To assure a continuing supply of funds for home mortgages through the VA loan guaranty program it has been determined that an increase in the maximum permissible rates is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed and insured mortgages.

Regulatory Flexibility Act/Executive Order 12291 Certifications

The Administrator of Veterans Affairs hereby certifies that these final regulations, which will change the maximum interest rates for VA guaranteed, insured, and direct home and condominium loans, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601-612. The Regulatory Flexibility Act provides that for purposes of the Act, " * * * the term 'rule' means any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law, * * *" 5 U.S.C. 601(2). Similarly, the Act provides that "When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis." 5 U.S.C. 604(a). Two provisions in section 553 of title 5 United States Code give a legal basis for exempting these regulatory amendments from the requirement that they be published for general notice in the **Federal Register**. Additionally, there is no other law requiring that the regulations be so published. Consequently, the regulations are exempt from the provisions of the Regulatory Flexibility Act.

Subsection (a)(2) of section 553 provides that:

> (a) This section applies according to the provisions thereof, except to the extent that there is involved—
> * * * * *
> (2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.

These regulations, which change interest rates, are matters relating to VA benefits and are, thus, exempt from the provisions of section 553

Subsection (b)(3)(B) of section 553 provides that unless required by statute, notice is not required "(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." The publication of notice of a regulatory change in the maximum interest rate for VA guaranteed, insured, and direct home and condominium loans would create an acute shortage of mortgage funds pending the final date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has long been the position of the Veterans Administration that notice and public procedure prior to final adoption of the regulation would be contrary to public interest. For the foregoing reasons, these regulatory amendments are also exempt from 38 CFR 1.12. Finally, 38 U.S.C. 1803(c)(1), the section which mandates that the Administrator of Veterans Affairs shall establish the rate of interest, does not require that any change in the rate be published for notice in the **Federal Register.**

Even though the Regulatory Flexibility Act does not apply to these particular regulations, I further certify that the regulations will not have significant economic impact on a substantial number of small entities, as those terms are defined in that Act. Therefore, these regulations are exempt from the regulatory analysis requirements of the Act.

The reasons for this certification are that changes in the VA interest rates are mandated by 38 U.S.C. 1803(c)(1) to assure veterans available funding for VA guaranteed loans while assuring the lowest reasonable cost to veterans for their loans. Interest rate changes do not impact upon small Government jurisdictions or upon small organizations. Small businesses, including small lending companies, small real estate firms, and small developers, participate in the VA home loan program. Interest rate amendments require no additional recordkeeping on loans closed at the new effective rate. On guaranteed loans on which a commitment has been previously issued but the loan has not closed, the lender must obtain the veteran's written authorization to close at the higher rate. This one time reporting requirement does not have a significant economic impact upon small businesses.

Interest rate amendments are necessary because of fluctuations in the cost of mortgage funds in the secondary market. These fluctuations affect all lenders regardless of size. When mortgage funds become more restrictive, investors in the secondary market demand a greater return on their investment. Since the VA interest rate is set at a maximum, investors purchase loans at a discount from lenders originating loans, thereby increasing the effective yield on their investment. This discounting of loans on the secondary

market means that the lender must pass this cost on home and condominium loans through to the home seller or builder in the form of a charge generally termed points or discount points. As the money market becomes more restrictive, the cost of funds or the discount charged the home seller or home developer increases to high levels. By increasing the interest rate, investors may lower the discount points charged to sellers or developers and still maintain the necessary yield for secondary market investors. The interest rate increase should thereby aid developers, particularly small developers, who may be unable to absorb excessive discount points. Lenders may also find it easier to obtain funding for VA guaranteed loans which should benefit the small lender. It should be noted that the increased VA maximum rate in optional, not mandatory; lenders are free to close at any rate up to the new maximum. We therefore believe that this amendment to the VA regulations will have no compliance costs and minimal reporting burdens upon small businesses. Not only should the amendments cause no disproportionate adverse impacts upon small entities, but they should not cause a significant economic impact on any entities, large or small. For all the foregoing reasons, we have concluded that the amendment increasing the guaranteed home and condominium interest rate is a nonsignificant regulation with respect to the Act, and no final regulatory flexibility analysis is required.

Concerning direct loans, increases in the interest rates charged on direct loans are mandated by 38 U.S.C. 1811(d)(1) which requires that the rate for VA direct loans must be set at a rate not to exceed the guaranteed loan rate. Since the VA is the lender on direct loans, and the VA charges no discount points to sellers or developers participating in the program, the increase in the interest rate for VA direct loans should have no economic impact upon any small entity. The increase in the direct loan interest rate therefore is a nonsignificant regulation with respect to the Act, and no final regulatory flexibility analysis is required.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they do not come within the definition of a "major rule" as defined in that Order. Also, the existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process will still permit timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market. These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1) and 1811(d)(1) of title 38, United States Code. The regulations are clearly within that statutory authority and are consistent with Congressional intent.

The increase in the maximum interest rate is accomplished by amending §§ 36.4311(a) and 36.4503(a) of title 38, Code of Federal Regulations.

Approved: April 10, 1981.

Rufus H. Wilson,

Acting Administrator.

1. In § 36.4311, paragraph (a) is revised to read as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 14½ per centum per annum, effective April 13, 1981, the interest rate on any home or condominium loan guaranteed or insured wholly or in part on or after such date may not exceed 14½ per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

2. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1978, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $25,000. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 14½ percent per annum. Loans soley for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 16 percent per annum. (38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

(38 U.S.C. 210(c), 1803(c))

[FR Doc. 81-13801 Filed 5-6-81; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 36

Mobile Home Loans; Increase in Maximum Permissible Interest Rate

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is increasing the maximum permissible interest rate on guaranteed mobile home loans. The maximum interest rates are increased because the former rates were not sufficiently competitive to induce private sector lenders to make VA guaranteed mobile home loans. The increases will attract funds for GI mobile home loans; thereby, allowing veterans to purchase mobile homes with the assistance of no downpayment VA loans.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202-389-3042.

SUPPLEMENTARY INFORMATION: The Administrator is required to establish a maximum interest rate for mobile home loans guaranteed by the Veterans Administration as he finds the capital markets demand. Recent market indicators, including the general increase in interest rates charged on conventional mobile home loans and the increase in the prime interest rate, have shown that the capital markets have become more restrictive. The maximum rates formerly in effect for VA guaranteed mobile home loans were not sufficiently competitive to induce private sector lenders to make VA guaranteed mobile home loans. To assure a continuing supply of funds for mobile home loans through the VA loan guaranty program, it has been determined that an increase in the maximum permissible rates is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed mobile home loans.

The increase in the interest rate applies to mobile home unit loans, mobile home lot and site preparation loans, and combination loans involving

the purchase of a mobile home unit and lot.

Regulatory Flexibility Act/Executive Order 12291 Certifications

The Administrator of Veterans Affairs hereby certifies that this final regulation, which will change the maximum interest rates for VA guaranteed mobile home loans, is not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612. The Regulatory Flexibility Act provides that for purposes of the Act, "* * * the term 'rule' means any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law, * * *" 5 U.S.C. 601(2). Similarly, the Act provides that "[w]hen an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis." 5 U.S.C. 604(a). Two provisions in section 553 of title 5, United States Code, give a legal basis for exempting this regulatory amendment from the requirement that it be published for general notice in the **Federal Register**. Additionally, there is no other law requiring that the regulation be so published. Consequently, the regulation is exempt from the provisions of the Regulatory Flexibility Act.

Subsection (a)(2) of section 553 provides that:

> (a) This section applies according to the provisions thereof, except to the extent that there is involved—
>
> (2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.

This regulation, which changes mobile home interest rates, is a matter relating to VA benefits and is, thus, exempt from the provisions of section 553.

Subsection (b)(3)(B) of section 553 provides that unless required by statute, notice is not required "(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." The publication of notice of a regulatory change in the maximum interest rates for VA guaranteed mobile home loans would create an acute shortage of loan funds pending the final date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has long been the position of the Veterans Administration that notice and public procedure prior to final adoption of the regulation would be contrary to public interest. For the foregoing reasons, this regulatory amendment is also exempt from 38 CFR 1.12. Finally, 38 U.S.C. 1819(f), the section which mandates that the Administrator of Veterans Affairs shall establish the rate of interest, does not require that any change in the rate be published for notice in the **Federal Register.**

Even though the Regulatory Flexibility Act does not apply to this particular regulation, I further certify that the regulation will not have significant economic impact on a substantial number of small entities, as those terms are defined in that Act. Therefore, this regulation is exempt from the regulatory analysis requirements of the Act.

The reasons for this certification are that changes in the VA interest rates are mandated by 38 U.S.C. 1819(f) to assure veterans availability funding for VA guaranteed mobile home loans while assuring the lowest reasonable cost to veterans for their loans. Interest rate changes do not impact upon small Government jurisdictions or upon small organizations. Small businesses including small lending companies and small mobile home dealers participate in the VA mobile home loan program. Interest rate amendments require no additional recordkeeping on loans closed at the new effective rate. On loans on which a commitment has been previously issued but the loan has not closed, the lender must obtain the veteran's written authorization to close at the higher rate. This one time reporting requirement does not have a significant economic impact upon small businesses.

Interest rate amendments are necessary because of fluctuations in the cost of loan funds. These fluctuations affect all lenders regardless of size. When loan funds become more restrictive, investors demand a greater return on their investment. Since the VA interest rate is set at a maximum, investors purchase loans at a discount from lenders originating loans; thereby increasing the effective yield on their investment. This discounting of loans on the secondary market means that the lender must pass this cost through to the mobile home seller or dealer in the form of a charge generally termed points or discount points. As the money market becomes more restrictive, the cost of funds or the discount charged the seller or dealer increases to high levels. By increasing the interest rate, investors may lower the discount points charged to sellers or dealers and still maintain the necessary yield for investors. The interest rate increases should thereby aid sellers and dealers, particularly small dealers, who may be unable to absorb excessive discount points. Lenders may also find it easier to obtain funding for VA guaranteed mobile home loans which should benefit the small lender. It should be noted that the increased VA maximum rates are optional not mandatory; lenders are free to close at any rate up to the new maximum. We, therefore, believe that the amendment to the VA regulations increasing the mobile home interest rates will have no compliance costs and minimal reporting burdens upon small businesses. Not only should the amendments cause no disproportionate adverse impacts upon small entities, but they should not cause a significant economic impact on any entities, large or small. For all the foregoing reasons, we have concluded that the amendment increasing the mobile home interest rates is a nonsignificant regulation with respect to the Act, and no final regulatory flexibility analysis is required.

This regulatory amendment has also been reviewed under the provisions of Executive Order 12291. The VA finds that it does not come within the definition of a "major rule" as defined in that Order. Also, the existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process will still permit timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of credit at rates consistent with the market. These regulations are adopted under authority granted to the Administrator by sections 210(c), and 1819 (f) and (g) of title 38, United States Code. The regulations are clearly within that statutory authority and are consistent with Congressional intent.

The increases in the maximum interest rates are accomplished by amending § 36.4212(a) (1), (2), and (3), Title 38, Code of Federal Regulations.

Approved: April 24, 1981.

Rufus H. Wilson,

Acting Administrator.

In § 36.4212, paragraph (a) is revised as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed or insured pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to the respective effective date: (38 U.S.C. 1819(f))

(1) Effective April 27, 1981, 17½ percent simple interest per annum for a loan which finances the purchase of a mobile home unit only.

(2) Effective April 27, 1981, 17 percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) Effective April 27, 1981, 17 percent simple interest per annum for a loan which will finance the simultaneous acquisition of a mobile home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the mobile home.

* * * * *

[FR Doc. 81-13800 Filed 5-6-81; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual, Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for Issue 5 of the Domestic Mail Manual (DMM), which is incorporated by reference in the **Federal Register**, 39 CFR 111.1.

Some of the revisions are minor, editorial, or clarifying. Substantive changes, such as those concerning third-class carrier route presort mail, have previously been published in the **Federal Register** both in the proposed rule and the final rule stages.

EFFECTIVE DATE: March 1, 1981.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 245-4638.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual, which is incorporated by reference in the **Federal Register** (See 39 CFR 111.1), has been amended by the publication of a transmittal letter for Issue 5, dated March 1, 1981. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

The following excerpt from the Summary of Changes section of the transmittal letter for Issue 5 covers the minor changes not previously described in final rules published in the **Federal Register.**

Summary of Changes

Issue 5 contains all DMM revisions published between September 25, 1980 and January 8, 1981.

1. Sections 112.2 and 112.35 are revised to reflect recent amendments to the regulations which implement the Private Express Statutes (PB 21267, 10-16-80).

2. Section 113.263 is revised to update the cross-reference to the *Administrative Support Manual.*

3. Sections 121.5, 121.731, and 128.6e are revised to redefine "high density" parcels. The new definition allows certain high density parcels to qualify as machinable parcels (PB 21268, 10-23-80).

4. Exhibit 122.633 is revised to include Walnut Creek, CA.

5. Exhibit 125.2 (p. 2) is revised to add APO 09668, Khartoum, Sudan.

6. Part 126 is revised, at the request of the Department of State, to clarify the regulations governing State Department pouch mail (PB 21270, 11-6-80).

7. Part 132 is revised to include the new mail classification center (MCC) at the Brooklyn, New York Post Office (PB 21269, 10-30-80). Incorrect ZIP Codes also corrected.

8. Part 144 is revised to: clarify regulations on .00 meter impressions; discontinue mandatory use of Form 3602-A, *Daily Record of Meter Register Readings;* authorize advance deposits for on-site meter settings; clarify regulations concerning meters set at another office under the on-site meter setting program; clarify the Computerized Remote Postage Meter Resetting Program; and define permissible content of meter ad plates (PB 21262, 9-11-80; PB 21274, 12-4-80).

9. Section 149.161 (first sentence) is revised to correct an erroneous reference.

10. Sections 159.551, 159.552, and 159.561 are revised to reflect changes in the dead mail branches in the Southern Region (PB 21278, 1-1-81).

11. Section 159.552 is revised to provide that dead letters from Illinois post offices located in the St. Louis, MO MSC (ZIP Code prefixes 620 and 622) be sent to the dead letter branch at St. Louis, MO 63155 (PB 21265, 10-2-80). Incorrect ZIP Codes are also corrected.

12. Part 294 is revised to clarify insurance coverage to improve customer understanding and administration of insurance claims (PB 21270, 11-6-80).

13. * * *

14. * * *

15. Section 911.32 (final sentence) is revised to insert the word *not* between the words *will* and *absorb.* This was inadvertently omitted in Issue 2.

16. Section 941 is revised to reflect the use of new Form 6387, *Rural Money Order Transaction* (PB 21274, 12-4-80).

In consideration of the foregoing, 39 CFR 111.3 is amended by adding at the end thereof the following:

§ 111.3 Amendments to the domestic mail manual.

* * * * *

Transmittal letter for issue	Dated	Federal Register publication
*	* * *	* * *
5	Mar. 1, 1981	46 FR 25446

[5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408, 3001-3011, 3201-3218, 3403-3405, 3601, 3621; 42 U.S.C. 1973 cc-13, 1973 cc-14]

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 81-13763 Filed 5-6-81; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52, 81

[A1 FRL 1809-6]

Rhode Island Revisions; State Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this Notice is to approve, in part, the State Implementation Plan (SIP) revisions for Rhode Island which were received by the Environmental Protection Agency (EPA) on May 14, June 11 and August 13, 1979. In addition, EPA is taking final action to approve conditionally five elements of the SIP revisions.

These plan revisions were prepared by the state to meet the requirements of Part D (Plan Requirements for Non-Attainment Areas) and certain other sections of the Clean Air Act (the Act) 42 U.S.C. 7401 et seq., as amended in 1977. On December 7, 1979 (44 FR 70486), EPA published a Notice of Proposed Rulemaking (NPR) which described the revisions, discussed certain provisions

which in EPA's judgment did not comply with the requirements of the Act, and requested public comment. Six comments have been received. Responses to general comments received on the December 7, 1979 NPR are contained in a separate section at the end of the preamble. In this Notice EPA is also amending 40 CFR Part 81 to redesignate the attainment status of Providence for total suspended particulates.

EFFECTIVE DATE: May 1, 1981.

ADDRESSES: Copies of the SIP revisions and comments received are available for public inspection during normal business hours at the Air Branch, Room 1903, U.S. EPA, Region I, J.F.K. Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, U.S. EPA, 401 M Street, SW., Washington, DC 20400; The Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, DC and the R.I. Department of Environmental Management, Division of Air Resources, Cannon Building, Room 204, 75 Davis Street, Providence, RI 02908.

FOR FURTHER INFORMATION CONTACT: Harley F. Laing, Chief, Air Branch, Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203, (617) 223-6883.

SUPPLEMENTARY INFORMATION: EPA's December 7, 1979 Notice of Proposed Rulemaking (NPR) (44 FR 70486) outlined the requirements of the Clean Air Act (the Act) that Rhode Island has addressed in its submittal. These will not be restated here. The NPR also contained detailed descriptions of the SIP revisions being acted on in this Notice which will not be repeated here except as necessary to respond to comments. The NPR raised several issues which in EPA's judgment required changes in either the SIP narrative or the regulations. In response to the NPR, Rhode Island submitted the following narrative and regulatory changes and clarifications to Rhode Island's submittal on January 8, 1980, January 24, 1980, March 10, 1980, March 31, 1980, April 21, 1980, June 6, 1980, June 13, 1980, August 20, 1980, November 14, 1980, March 4, 1981, March 5, 1981 and April 16, 1981. The substance of these changes and clarifications is discussed in the appropriate section of this Notice.

The Rhode Island SIP revisions, except as otherwise noted in this Notice, were developed in response to the requirements of Part D of the Act. In general, the SIP is required to provide for attainment and maintenance of the national ambient air quality standards (NAAQS) for all areas which have been designated non-attainment areas pursuant to Section 107 of the Act. Specific requirements are discussed in detail in the **Federal Register** of May 19, 1978 (the Administrator's Memorandum), (43 FR 21673), General Preamble of April 4, 1979 (the General Preamble) (44 FR 20372), and supplements published on July 2 (44 FR 38583), August 28 (44 FR 50371), September 17 (44 FR 53761), and November 23, 1979 (44 FR 67182).

EPA has received six letters of comment. Two of these were general letters concerning SIP revisions which were sent to every EPA regional office. These two letters are discussed in Section III of this Notice. One comment was received from the Federal Highway Administration (FHWA) and is discussed in Section I. C. and D. One was received from Urban Mass Transportation Administration (UMTA) and is discussed in Section I. C. and D. One was received from the Rhode Island Lung Association (RILA) and is discussed in Sections I. A., B., C., D., E., I. and K. One was received from the Rhode Island Department of Environmental Management (RIDEM) and is discussed in Section I. C. and H.

As a result of consideration of these public comments and the requirements of the Clean Air Act, EPA is:

Approving:

1. The stationary source volatile organic compounds (VOC) section except for the portion pertaining to surface coating of paper and fabric.
2. The carbon monoxide attainment plan.
3. The transportation planning process section.
4. The public transportation portion of the plan.
5. The reasonable further progress demonstration.
6. Extension for attainment of ozone standards to December 31, 1987.
7. The notice and hearing provisions.
8. Resource commitments.
9. Conflict of interest provisions.
10. The plan showing evidence of public, local, and state involvement in SIP development.
11. The program for reasonably available control measures.

Approving Conditionally

1. The inspection/maintenance (I/M) program.
2. The program to review new sources in non-attainment areas (New Source Permit Program) except for Sections 9.2.3(b) and 9.12 of Regulation 9.
3. The emission inventories section
4. Surface coating of paper and fabric of the stationary source VOC section.

Approving (Under 40 CFR Part 81) the Following Redesignations

1. The termination of the designation of Providence as non-attainment, based upon the data from the Dyer Street air sampler.
2. The designation of Providence as non-attainment for the primary TSP standard based upon the 1978 data from the Westminster Street air sampler.

Taking no Action on

1. The program to review new sources in attainment areas (Prevention of Significant Deterioration).
2. Monitoring.
3. Permit fees.
4. Consultation.
5. Stack height requirements.
6. Interstate pollution.
7. Public notification.
8. Sections 9.2.3(b) and 9.12 of Regulation 9.

I. Part D Non-Attainment Control Strategies

A. Total Suspended Particulates (TSP)

Based on data from an air sampler at Dyer Street, the city of Providence was designated non-attainment for the primary TSP standard in the March 3, 1978 **Federal Register** (43 FR 8962). EPA and RIDEM have determined that the Dyer Street sampler was both improperly sited and unduly influenced by reentrained road dust. Therefore, Providence should not have been designated non-attainment based on that data. However, EPA's review of 1978 data from an air sampler at Westminster Street revealed a primary standard violation. The Westminster Street air sampler is influenced by a markedly different class of sources from those at Dyer Street and has not recorded previous violations of the primary standard. Additional details concerning the Dyer and Westminster Streets air samplers were presented in the NPR (44 FR 70488).

Because the non-attainment designation based on the Dyer Street data is being terminated and a new non-attainment designation is being made based on the Westminster Street data, RIDEM has twelve months from the date of this Notice to submit an approvable TSP standard attainment plan for Providence.

In the NPR, EPA proposed to terminate the designation of Providence as non-attainment for the primary TSP standard based upon the data from the Dyer Street air sampler, to approve a new designation of Providence as non-attainment for the primary TSP standard based upon the 1978 data from the

Westminster Street air sampler, and to require RIDEM twelve months from the date of this Notice to provide an approvable TSP standard attainment plan for Providence.

The Rhode Island Lung Association provided the sole comment on the TSP aspects of EPA's NPR. Adressing EPA's brief synopsis of Part D of the Act, the Rhode Island Lung Association commented that chemical and physical analyses of particulate samples were essential to comply with Part D requirements. EPA finds that these analyses are not necessary to identify particulate standards violations and are not required by Part D. It would, therefore, be inappropriate for EPA to require that RIDEM perform such analyses.

Action:

EPA is:

1. Terminating the designation of Providence as non-attainment for the primary TSP standard based upon the data from the Dyer Street air sampler.

2. Approving a new designation of Providence as non-attainment for the primary TSP standard based upon the 1978 data from the Westminster Street air sampler.

3. Requiring an approvable revised control strategy attainment plan for Providence. RIDEM must submit such a plan written twelve months from publication of this Notice pursuant to Section 129(c) of Pub. L. 95-95.

B. Ozone(O_3)—Control of Stationary Source Volatile Organic Compounds (VOC)

Rhode Island was designated non-attainment statewide for ozone (O_3) in the March 3, 1978 **Federal Register** (43 FR 8962). In order to meet the requirements of Part D of the Act RIDEM has developed regulations to control the following source categories to Reasonably Available Control Technology (RACT): limits surface coating of paper and fabric, solvent metal cleaning and petroleum storage and marketing (including Stage I vapor recovery). The state claims the use of cutback asphalt is insufficient to warrant control at this time and that there are no sources in the remaining group I categories. EPA is approving an extension for attainment of ozone standards until December 31, 1987 (See Section I.F. of this Notice).

1. Surface Coating of Paper and Fabric

In response to condition 1 of the NPR for this source category, Rhode Island submitted adopted Regulation 19 on January 8, 1980. This regulation requires control statewide of paper and fabric coating sources to the emission limits recommended in the relevant CTG. In response to condition 2 of the NPR, the state indicated a final compliance date of 1985, which is beyond the December 31, 1982 date recommended in EPA guidance for add on control devices and presently available low solvent technology. However, the state has surveyed the ten sources affected and found that it would be economically prohibitive to install control devices by December 31, 1982 and that because of the specialized nature of the coating generally used, few low solvent substitutes are available at this time. The state has set an interim emission limit of 4 lbs/gal to be achieved by 1982 which will result in significant reductions by that date. New solvent systems must be developed to achieve the 1985 limit and the compliance schedule appears to be developed to achieve the 1985 limit and the compliance schedule appears to be reasonable considering the large number of new specialty coatings to be developed and tested. The individual compliance schedules were to have been submitted to the state by March 1, 1980 and then submitted to EPA for review and approved as part of the SIP revisions. These schedules are presently being finalized by the state and will be submitted to EPA for review to determine whether they are expeditious.

In response to condition 3 of the NPR, the state has shown that the emission reduction to be realized from implementation of Regulation 19 will be within 5 percent of the reductions which would result from the use of the recommended EPA source size criteria in the Administrator's Memorandum.

A letter of comment was received from the Rhode Island Lung Association which stated that it is essential to the environmental movement's credibility and effectiveness that EPA accept the responsibility of proving the reasonableness of its own standards. In particular, the letter (1) questioned EPA's authority to require states to adopt CTG limits or document why a source category cannot meet these limits; (2) questioned the reasonableness of the CTG limits; (3) stated that there is no documentation for the 2.9 lb/gal limit in the CTG for paper and fabric coating; (4) objected to a requirement that states must justify failure of surface coating operations to meet the CTG emission limit; and (5) urged EPA to require the state to closely monitor and document the solvent coating industries' efforts to develop low or no solvent formulas.

The first, second and fourth points have been addressed in the **Federal Register** on September 17, 1979 (44 FR 53761-53763). This was a supplement to the General Preamble which addressed CTGs.

The 2.9 lb./gal limit which was questioned in the third point was documented in the CTG and was based on 90 percent capture and 90 percent control using add on control devices which are in general use in the coating industry. This limit can also be achieved by using various low solvent technologies. The last point raised urged EPA to require the state to monitor closely and to document the coating industries' efforts to develop low or no solvent formulas. The state will be required to monitor the compliance schedule for each source and report to EPA on accomplishment of increments of progress. The effect of this requirement will be to facilitate the monitoring of progress in development of the coating technology to meet the emission limits. EPA is also monitoring nationwide the development of promising low or no solvent technologies.

Action:

EPA is approving this portion of the SIP revisions conditioned upon submittal by July 1, 1981 of all individual compliance schedules for sources in this category including a justification of need for any extensions beyond December 31, 1982.

2. Solvent Metal Cleaning

In the NPR, EPA proposed approval of Regulation 18 which requires control of metal cleaning operations, conditioned upon the state changing the compliance schedule to meet EPA's recommended schedule or justifying the schedule in Regulation 18 which is eight months longer. The state has presented a justification which is based upon the practical problems of implementing the required measures on a large number of very small sources. This justification is considered adequate by EPA.

Action:

EPA is approving this portion of the SIP revisions.

3. Petroleum Storage and Marketing

In the NPR, EPA proposed approval conditioned upon the state revising the Stage I gasoline vapor recovery requirements in Regulation 11 to include controls for 2000 gallon tanks. The Regulation resubmitted on March 10, 1980 has been revised to include these tanks. In the NPR, EPA also proposed approval conditioned upon the state revising the compliance schedules in Regulation 11 for Stage I gasoline service station and bulk terminal controls to be consistent with the

schedules recommended in EPA guidance or to provide adequate justification for the schedule in the regulation. Regulation 11 has been revised to change the compliance date from July 1, 1982 to the July 1, 1981 date recommended by EPA for these categories. Since there is no compliance schedule for bulk plants in Regulation 11 in the NPR, EPA also proposed approval conditioned upon a certification that there are no bulk plants in the state, submission of a compliance schedule acceptable to EPA for any bulk plants, or adequate justification for not controlling bulk plants. The state has responded by certifying that there are no bulk plants in the state to which the regulation would apply and that the regulation is designed to cover any new sources including bulk plants. EPA considers these regulatory changes and justifications to be adequate.

Action:

EPA is approving the VOC portion of the SIP revisions as it pertains to petroleum storage and marketing.

4. Cutback Asphalt

In the NPR, EPA proposed approval of the cutback ashpalt portion of the SIP revisions conditioned upon the state submitting a documented estimate of cutback asphalt usage, a commitment to monitor such usage annually and to adopt a regulation to control the use of cutback asphalt when emissions in any single county in the state exceed 100 tons per year. In response to the NPR, the state has submitted a revised analysis of cutback ashpalt emissions using U.S. Department of Energy figures which show that only 49 tons of VOC per year are emitted from this category statewide. The state has committed to survey all municipalities annually for cutback usage and adopt a regulation to control such usage if the VOC emissions in any county exceed 100 tons annually. EPA considers this response adequate.

Action:

EPA is approving the VOC portion of the SIP revisions as it pertains to cutback asphalt.

5. Other Categories

In the NPR, EPA requested a certification that there are no sources located in Rhode Island in the remaining CTG categories. This certification was submitted.

Action:

EPA is approving the VOC portion of the SIP revisions as it pertains to other categories.

6. Commitment to Future CTG Categories

In the NPR, EPA requested a commitment that the state implement RACT for VOC sources for which CTG's are published after January 1, 1978. The state, in response to the NPR, has provided such a commitment. EPA considers this response adequate.

Action:

EPA is approving the VOC portion of the SIP revisions as it pertains to commitment to future CTG categories.

C. Carbon Monoxide (CO)

The city of Providence was designated non-attainment for the 8-hour carbon monoxide (CO) standard in the March 3, 1978 **Federal Register** (43 FR 8962). According to the SIP revisions, monitoring undertaken since the designation demonstrates that violations of the standard are limited to the Providence central business district (CBD). The remainder of the state was designated as unclassifiable for carbon monoxide. Rhode Island's plan for CO is described in the NPR.

At the present time, the only locations known to have CO violations in the Providence CBD are in an area planned for the development of an auto restricted zone (ARZ). At the time of the NPR, it was felt that CO "hot spots" in this area could be eliminated if the ARZ were designed to include CO correction strategies to eliminate violations in the areas affected by the project. It was thought that this project could be implemented prior to the December, 1982 attainment date and that this would lead to earlier attainment of the CO standards. Therefore, EPA proposed as a condition for approval in the NPR that the ARZ project be reviewed by March 1, 1980 for consistency with the SIP revisions and adopted in the SIP revisions if shown to expedite attainment for CO standards. The condition would have been imposed pursuant to Section 172(b)(2) of the Act which requires the SIP revisions to provide for the implementation of all reasonably available control measures (RACM) as expeditiously as practicable.

EPA received a number of comments on this condition in the NPR. The Rhode Island Lung Association (RILA) felt that a requirement for analysis of the ARZ project separately from other projects in the CBD was inadequate in that these projects may affect traffic flow and, hence, CO levels. RILA recommended that the state and the city of Providence should be required to do a comprehensive CO analysis of all currently planned projects. EPA initially chose the above condition to expedite the implementation of the ARZ project because, as a RACM, the project had the potential to advance the date of attainment of standards. Other projects in the Providence CBD which would have the potential to affect CO levels will, in most cases, be reviewed through the consistency review and/or Environmental Impact Statement processes. Thus, further analysis would not necessarily expedite attainment of standards.

RIDEM questioned the basis for the ARZ analysis on the grounds that the state has already undertaken an effort to eliminate CO hot spots through implementation of the hot spot screening process. RIDEM also felt that the requirement would disrupt the on-going transportation-air quality planning and public participation process and stated that the project will be examined during 1980, as described in the Rhode Island Office of State Planning (RIOSP) work program. However, according to the RIOSP work program schedule, the analysis would not be completed by March 1, 1980. The Federal Highway Administration (FHWA) also commented that the ARZ project has not yet advanced to the design stage and that additional data will need to be developed before data required for the air quality review will be available. As a result, FHWA felt that the March 1, 1980 compliance date was impractical.

In reviewing the above information, EPA has concluded that the schedule for design and construction of the ARZ makes completion of the project substantially in advance of the 1982 attainment date doubtful. It is therefore unlikely that actions which might expedite project implementation will have the effect, in turn, of expediting attainment of standards. Because of this and the fact that RIOSP has examined the ARZ for air quality effects during 1980, EPA has determined that the condition for approval of the SIP revisions that the city of Providence analyze the ARZ for its impacts on CO levels in the CBD by March, 1, 1980 is unnecessary.

A further condition placed on EPA's approval of the CO portion of the SIP revisions was that appropriate state and local agencies must submit written commitments to EPA that they will seek the necessary resources and funding to develop and implement hot spot correction strategies for those locations given highest priority in the CO hot spot screening procedure, according to a schedule that will be incorporated into the SIP revisions. The submittal of January 8, 1980 contains a revision to the CO program, which includes a

commitment that "DOT and OSP (and local agencies) will * * * seek the necessary resources to develop and implement CO hot spot correction strategies for the highest priority locations. DOT will use available funding and seek additional funding as necessary to correct the high priority location." Also included is a commitment to incorporate the schedule for development and implementation of CO hot spot correction strategies into the SIP. EPA considers these commitments to be adequate.

Action:

EPA is approving the carbon monoxide portion of the SIP revisions.

D. Transportation Planning

1. *Process.*

Sections 172(b)(9) and 174 of the Act require the development of a transportation planning process for air quality improvements. The joint EPA–U.S. Department of Transportation (DOT) Air Quality Planning Guidelines (June, 1978) (hereafter EPA–DOT Guidelines) provide specific guidance and criteria to assist local planning agencies to develop a transportation planning process to be included in the SIP.

As discussed in the NPR, the Rhode Island SIP revisions include a section describing criteria and procedures to be followed in the consistency [1] review process. The criteria to be used in determining consistency of plans and programs are acceptable.

In response to the three conditions for approval in the NPR, RIDEM submittal on January 8, 1980, a revised Unified Planning Work Program (UPWP) task description and on January 24, 1980 a revised consistency agreement. The consistency review process documentation included: a procedure and schedule for review of Long Range Plans in response to condition (a)(i); a description of procedures for an independent consistency determination to be performed by RIDEM in response to condition (a)(ii); and procedures for addressing the consistency of projects beyond the draft EIS or draft Negative Declaration (Finding of No Significant Impacts) stage, not covered under the previous consistency review process in response to condition (a)(iii). Based on submittal of this material EPA finds that condition (a) has been met. The revised UPWP submitted by RIDEM identifies RIOSP's responsibilities for consistency review and EPA finds that this material is adequate to meet condition (b). The revised consistency review process documentation, discussed above, also includes documentation of a process ensuring that projects developed through the SIP process and transportation controls with air quality benefits will be implemented and given high priority for implementation. EPA finds that this procedure is adequate to meet condition (c).

EPA received a number of comments on the Transportation Planning Process portion of the NPR. RILA expressed full support for EPA's proposals to correct deficiencies in the SIP revisions consistency review procedures. The Region I Office of UMTA agreed that long range plans must be reviewed for consistency with the SIP and that appropriate procedures should be incorporated into the SIP. The Region I Office of FHWA questioned the requirement that the SIP revisions identify consistency determination procedures. Its concern is based on the fact that DOT was developing national procedures for carrying out Sections 176 (c) and (d) of the Act and it was therefore inappropriate to require state agencies to pursue the matter further without the benefit of DOT national procedures. While EPA recognizes that national guidance must be addressed in the SIP revisions and Rhode Island has responded accordingly in its submittal, the Act does not require the availability of national guidance on consistency review procedures before such procedures can be incorporated into the SIP. Furthermore, the joint EPA-DOT Guidelines state that revised SIPs for areas requiring an extension of the attainment date must provide specific procedures and criteria developed by lead agencies for determining whether the transportation planning process conforms to the SIP. DOT has recently published interim air quality conformity procedures (January 26, 1981, 46 FR 8426) and, in view of this, the Rhode Island process will be reviewed for compatibility and changes can be made if necessary.

Based on the material submitted by RIDEM and in consideration of comments reviewed, EPA feels that the conditions for approval appearing in the NPR have been met.

Action:

EPA approves the transportation planning process section of the SIP revisions.

2. Reasonably Available Control Measures (RACMs)

As a result of the deficiencies in the SIP revisions described in the NPR, EPA proposed to approve the RACM section with four conditions. In response to the first condition, the state submitted on January 8, 1980, a revised UPWP task description for RIOSP which includes: commitments to perform the analysis of the 18 RACMs; an assignment of agency responsibilities for undertaking the analysis; and a description of the general methodology to be applied in the RACM analysis. In response to condition 2, the January 8 submittal contained a schedule, with milestones, for the analysis of RACMs and their adoption into the SIP. The ultimate goal of this effort will be the submittal of a transportation element for the 1982 SIP revisions which will reduce mobile source emissions by the amount stated in the SIP as necessary to meet air quality standards. The procedures established as part of the consistency review process, discussed in Section I.D.1., Transportation Planning Process, assure the expeditious implementation of projects adopted into the SIP.

In its comments to EPA on the NPR, FHWA questioned the requirement that the state commmit to perform the analysis of the 18 RACMs, identify agency responsibilities and confirm that the analyses will identify resources which will attain the reduction target ascribed to transportation sources. The reason given for this comment is that the EPA studies of the 18 RACMs mandated under Section 108(f) have not been completed and that for the state to properly address this requirement, it shoud have the benefit of these reports. However, Section 172(b) of the Act and the Administrator's Memorandum require that the SIP revisions identify commitments and procedures for the analysis of the 18 RACMs and these requirements are not related to the availability of guidance documents. EPA finds that Rhode Island's response to these two conditions have been met.

In response to the third condition the state submitted a list of programs and projects with implementation schedules and funding commitments on March 10, 1980. It contained the following list of projects for implementation:

1. Bus Acquisition

The Rhode Island Public Transit Authority (RIPTA) will purchase approximately 34 buses in FY 1980, accelerating its bus replacement program. These buses will cost approximately $4.8 million, with 20

[1] The Rhode Island SIP revisions use the term "consistency" rather than "conformity". Although the term "conformity" is contained in Section 176(c) of the Act and is the basis of this requirement, the term "consistency" will be used in its place because this is the reference in the SIP revisions. UMTA and RIDEM have both commented in support of retaining the original terminology of the SIP revisions.

percent funded from a previous state bond issue and 80 percent from UMTA. The buses were ordered in 1980, with delivery expected in 1981. This project is listed in the state's Transportation Improvement Program (TIP) for FY 1980–1982.

2. Bus Operating Assistance

RIPTA will use approximately $7.8 million in federal and state funds (divided evenly between an UMTA grant and a state appropriation by the General Assembly) to meet its operating deficit in FY 1980. This project is listed in the FY 1980–1982 TIP.

3. Other Transit Projects (Dependent on Future Bond Issue)

RIPTA has programmed other projects in the FY 1980–1982 TIP that would also be funded 80 percent with UMTA grants and 20 percent with state money. As stated in the Governor's Annual Message, these other projects are dependent on passage of a bond issue for the state share. The Governor has said that he will ask the General Assembly to approve in the 1980 session a bond issue of approximately $3.6 million to be put before the voters. The bonds could be matched with $14.4 million in federal funds, for a total of approximately $18 million. The following RIPTA projects would be programmed in the next two years:

—Acquisition of about 86 additional buses

—Provision of an additional bus garage in Providence

—Provision of a satellite garage in Newport

—Purchase of communications equipment (radios)

—Capital improvements at other fixed facilities

The bond issue was approved by general referendum on July 22, 1980.

Included with the March 10, 1980 submittal is a letter from the General Manager of RIPTA dated February 26, 1980, in which it is stated that RIPTA is committed to the projects described above. This represents an adequate commitment to implementation of these projects.

On June 13, 1980, in response to the fourth condition in the NPR, RIDEM submitted an "Air Quality Analysis of Transit Projects for the State Implementation Plan," prepared by RIOSP. In their transmittal letter, RIDEM expressed reservations about the analysis because calculations were based on a 20 percent stringency rate for the I/M program. RIDEM states that the only documentation of the actual failure rate is based on an attitudinal survey which indicates a 4.5 percent failure rate. EPA also has reservations about the analysis in that it fails to show the air quality benefits of the specific projects and instead calculates the air quality benefits of the entire RIPTA system. This analysis therefore cannot show the incremental benefits gained from these specific program commitments. Furthermore, no attempt was made to determine the level of emissions from the buses or to establish how many of the trips made by bus were, in fact, diverted from automobiles. Studies performed nationally have shown that only a small fraction of all transit trips could have been made alternatively by automobile.

EPA recognizes that this study was prepared as an interim analysis and that a more detailed analysis is in preparation by OSP. Furthermore, RIDEM commits to updating their analysis of the I/M program at the earliest possible opportunity. Therefore EPA will accept this analysis with the understanding that it will be revised prior to the State taking credit toward Reasonable Further Progress (RFP) for these projects.

RIDEM did not submit procedures for reporting implementation or analysis of the ongoing air quality benefits from these projects as required in condition 4. In the absence of such procedures, EPA will determine compliance through the consistency determination of the TIP and will track the ongoing air quality benefits through the state's RFP documentation.

Action:

EPA approves the RACM portion of the Rhode Island SIP revisions.

3. Public Transportation

The Rhode Island SIP revisions contain a narrative which describes programs to increase bus transit utilization, including transit marketing programs, a park-and-ride program, and special fares. However, prior to the NPR, a clear commitment to expand or improve public transportation measures to meet basic transportation needs was not included. This was particularly important in that the SIP revisions did not establish the adequacy of the existing public transportation system. Therefore, as a condition for the approval of the public transportation portion of the SIP revisions, EPA required in the NPR that the SIP be revised to include adequate commitments from the Governor for the provision and funding of public transportation measures.

In response to the condition appearing in the NPR, the state submitted on January 24, 1980, a section of the Annual Message of Governor Garrahy to the General Assembly at the January 1980 session. In his message, the Governor identified service improvements instituted by RIPTA during 1979. He also authorized the funding necessary to purchase an additional 30–35 buses and asked the General Assembly to approve submission to the voters of a $3.6 million bond issue which would be used toward the purchase of additional buses and the renovation and construction of garage and transportation facilities. EPA feels that these programs represent a strong commitment to the requirements of Section 110(a)(3)(D).

A number of comments were received by EPA in response to this proposed action. RILA expressed support of the EPA proposal to correct deficiencies in the commitment to expand and improve public transit measures. The Region I Office of UMTA submitted detailed comments on what it considers as an acceptable examination of "basic transportation needs," i.e. a review of those changes in public transportation service, facilities, and policies that are necessary to maintain mobility as transportation control strategies are imposed. UMTA feels that this examination should take place as an integral part of the ongoing transportation planning process.

UMTA recommended conditional approval of the public transportation component of the SIP revisions and felt that full approval should be based on a demonstration of a commitment to development of comprehensive measures to meet basic transportation needs. EPA supports UMTA's position on the provision of basic transportation needs and encourages Rhode Island to incorporate the above considerations into its existing transportation planning process. However, EPA feels that the Governor's commitment to the funding and operation of an expanded public transportation program, in conjunction with State agency commitments to analyze improved public transit and long range transit programs as part of the transportation-air quality planning process, is adequate to meet the requirements of Section 110(a)(3)(D) of the Act.

It should be noted that DOT and EPA issued a proposed joint policy on basic transportation needs on September 18, 1980 (45 FR 62170) and have also revised the June 14, 1978 Memorandum of Understanding to include DOT and EPA procedures for reviewing SIP revisions with respect to basic transportation needs. EPA and DOT will review Rhode Island's future SIP revisions in light of this policy and procedures.

Action:

EPA approves the public transportation portion of the SIP revisions.

E. Motor Vehicle Inspection and Maintenance Program (I/M)

"Inspection/Maintenance" (I/M) refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Operation of noncomplying vehicles is prohibited. This is more effectively accomplished by requiring proof of compliance to purchase license plates or to register a vehicle. A windshield sticker system, much like that of many safety inspection programs can be used if it can be demonstrated that equal effectiveness will be achieved.

Section 172 of the Clean Air Act requires that SIPs for states which include nonattainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension to 1987 will be granted. In such cases Section 172(b)(11)(B) requires that: "The plan provisions shall establish a specific schedule for implementation of a vehicle control inspection and maintenance program * * *"

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978 regarding the specific criteria for I/M SIP approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking (44 FR 20372, 20373, n 6). Though the July 17, 1978, guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

* *Legal Authority.* States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the I/M program. (Section 172(b)(10)).

* *Commitment.* The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10)).

* *Resources.* The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(10)).

* *Schedule.* A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172(b)(11)(B)). Interim milestones are specified in the July 17, 1978, memorandum in accordance with the general requirement of 40 CFR 51.15(c).

* *Program Effectiveness.* As set forth in the July 17, 1978 guidance memorandum, the I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction for carbon monoxide. This reduction is measured by comparing the levels of emission projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172(b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * *"

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M legal authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision making to an appropriate regulatory body. For example, a state Department of Environmental Protection or Department of Transportation may be charged with implementing the program, selecting the type of test procedure as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any plan revision which must include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a state legislature has had no opportunity to consider enabling legislation.

Written evidence is also required to establish that the appropriate governmental bodies are "committed to implement and enforce the appropriate elements of the plan." (Section 172(b)(10).) Under Section 172(b)(7), supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an inspection/maintenance program is required (Section 172(b)(11)(B). The July 17, 1978, guidance memorandum established as EPA policy the key milestones for the implementation of the various I/M programs. These milestones were the general SIP requirement for compliance modified at 40 CFR 51.15(c). This section requires that increments of progress be incorporated for compliance schedules of over one year in length.

To be acceptable, an I/M program must achieve the requisite 25% reductions in both hydrocarbon and carbon monoxide exhaust emissions from passenger cars by the end of calendar year 1987. The Act mandates "Implementation of all reasonably available control measures as expeditiously as practicable." (Section 172(b)(2).) At the time of passage of the Clean Air Act Amendments of 1977, several I/M programs were already operating, including mandatory programs in New Jersey and Arizona operating at about a 20% stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not undergone I/M before. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program.) Depending on program type (private garage or centralized inspection) a mandatory I/M program may be implemented as late as December 31, 1982. Based on implementation date of December 31, 1982 and a 20% stringency factor, EPA predicts the reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factor, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2).

EPA published the 1982 SIP policy (part of which pertains to I/M programs) on January 22, 1981 (46 FR 7182). As discussed in that policy states with areas that have I/M programs under development or operational as part of their 1979 SIP revisions were required to submit only qualitative descriptions of their I/M program elements in the 1979 SIP submittal. The 1982 SIP revision must include, unless already submitted and approved as part of a previous SIP submittal, rules and regulations and all other I/M elements which could affect the ability of the I/M program to achieve the minimum emission reduction requirements. More specifically, the 1982 submittal must include the following critical elements: (1) Inspection test procedures; (2) emission standards; (3) inspection station licensing

requirements; (4) emission analyzer specification and maintenance/calibration requirements; (5) recordkeeping and record submittal requirements; (6) quality control, audit, and surveillance procedures; (7) procedures to assure that non-complying vehicles are not operated on the public roads; (8) any other official program rules, regulations, and procedures; (9) a public awareness plan; and (10) a mechanics training program if additional emission reduction credits are being claimed for mechanics training.

EPA will determine the overall adequacy of the critical elements of each I/M program and, therefore, the approvability of the 1982 SIP by comparing those elements to established I/M policy. I/M program elements must be consistent with EPA policy or a demonstration must be made that the program elements are equivalent.

State or local governments that have I/M programs, but plan to increase the coverage and/or stringency of the programs in order to achieve greater reductions and to demonstrate earlier attainment of the standards, must submit the program modifications in legally enforceable form through the 1982 SIP revision process.

In the case of a partial submittal EPA's action will be limited to the submitted program elements. Final action on the total I/M program must be reserved until all elements are submitted and reviewed in order to assure that the program satisfies the requirements in Part D of the Clean Air Act.

The Rhode Island I/M Program. Rhode Island included provisions in its SIP for an I/M program which began mandatory inspection/maintenance on January 1, 1979. EPA published a NPR regarding the RI I/M program on December 7, 1979 (44 FR 70486). A description of the program was included in that Notice. As discussed in the NPR, ten elements of the RI I/M program were identified by the State Planning Council as requiring study. The State Planning Council recommended in June 1979, that these ten program elements be jointly studied by RIDOT and RIDEM. These recommendations were incorporated into a letter from Governor Garrahy to EPA which was received on August 13, 1979. In this letter, the Governor indicated that he had directed the State Planning Council and the affected state agencies to refine the I/M program based on the results of the studies by January 1, 1981. Based on this, EPA proposed, in the December 7, 1979 Notice, to approve the RI I/M program conditioned on the receipt of the following January 7, 1980:

(1) A written commitment from the authorized state agencies or officials binding them to the implementation by January 1, 1981 of an inspection/maintenance (I/M) program (including necessary refinements) which will accomplish the required 25% reduction in hydrocarbon and carbon monoxide emissions from light duty vehicles by December 31, 1987.

(2) This commitment must include a schedule featuring interim and final dates to complete the study and adoption of the necessary refinements (discussed in the NPR) and listed in the addendum to the Governor's letter. This submittal must indicate the delegation of responsibilities, and the funding and manpower commitments to accomplish these refinements.

(3) A commitment to submit an approvable revision to the SIP incorporating these refinements within twelve months of the NPR.

During the comment period, only one comment was received on the I/M program. The Rhode Island Lung Association supported the EPA position that the State should correct the deficiencies identified in the I/M program by the State Planning Council.

On August 20, 1980, RIDEM submitted additional information to EPA on the I/M program. This package contained language regarding the commitment to achieve the requisite emission reduction by December 31, 1987. In this submittal, the State indicated that it felt the existing I/M program will achieve the required reduction by 1987 and that it is committed to continuing the operation of the existing program. The package also stated that if evaluation of the program in future years indicates that the required reduction would not be met, the State would modify the I/M program. RI also claimed reductions in their SIP RFP line for an I/M program with a 20% stringency. EPA's evaluation of RI's program with this stringency indicates that the required reduction will be achieved by 1987. Therefore, EPA finds RI's commitment acceptable.

A schedule was included in the August 20, 1980, package which contained interim and final dates for completion of studies of the ten program elements identified by the State Planning Council. However, final dates for the adoption of the program refinements resulting from the studies were not included in all cases. The status of each of these ten studies is discussed below:

1. Development and Implementation of a Data Recording and Management System

RIDOT and RIDEM signed a cooperative agreement dated March 5, 1980, which was submitted as part of the August 20, 1980 submittal, to design and implement a data system that will use data acquired from garage inspections and roadside checks to determine such items as: Failure rates, average CO/HC emissions, a systematic method for doing random roadside sampling and the statistical difference in HC/CO emission between roadside checked vehicles and garage inspected vehicles. Completion of the system design by RIDOT was scheduled for July 1980; system documentation was to have been submitted to EPA by RIDOT by October 1980; and system implementation was scheduled for January 1981.

While the final system documentation has not yet been submitted, EPA has received on March 5, 1981 a status report and schedule from RIDEM which indicates that the system has been partially implemented. EPA will make a final determination of the acceptability of the I/M program data collection/management system, after the complete documentation has been received and reviewed.

The data analysis as discussed in the August 20, 1980 submittal should be adequate as long as sufficient data is collected from the inspection stations to allow an evaluation of program effectiveness. A final determination of the acceptability of this element cannot be made until EPA receives all this documentation; therefore, Condition 2 of the NPR as it relates to this study has not been met.

2. Development and Implementation of Quality Assurance Procedures Concerning Instrument Calibration Techniques and the Sticker Control System

RIDEM and RIDOT have prepared an outline which contains procedures to be used in the testing of gases used by RIDOT inspectors to calibrate emission analyzers. RIDOT has agreed to enter into an MOU with the RI Department of Health for implementation of the final procedures. This MOU was scheduled to be submitted to EPA by October, 1980. As of this Notice, the procedures are still under review by RIDEM, and the MOU has not been signed or submitted to EPA. However, RIDEM submitted a letter dated March 5, 1981 to EPA which indicates that the quality assurance procedures and the MOU will be submitted by May 15, 1981.

Additionally, new precedures for issuing inspection stickers to licensed inspection garages and for monitoring the number of inspection stickers issued monthly by each garage were to have been developed by October, 1980 and implemented by December, 1980. The State is currently computerizing the auditing portion of this procedure and linking it to the I/M data collection system. Data collection from the garages has begun.

RIDEM submitted additional information on sticker control to EPA in their letter of March 5, 1981. This submittal indicated that RIDOT has implemented a policy of scrutinizing the number of inspection stickers requistioned by each inspection station and investigating cases of excessive requisitions.

In addition to monitoring the number of stickers issued to inspection stations, the State should also require each station to account for all stickers, both issued and unissued, through a monthly report. A sticker control system can be effective if this or an equivalent procedure is used to make the inspection stations accountable for every sticker issued to them.

3. Determination of the Need for a Light Duty Engine Emission Repair and Maintenance Training Course for Garage Mechanics

In the August 20, 1980 submittal, RIDEM committed to work with EPA to gather information concerning the benefits of a garage mechanic education course. This was to have been completed by September, 1980 and reported to RIDOT. RIDOT was to then submit this information to a legislative commission by December, 1980 for further consideration. RIDEM reported in their March 5, 1981 letter to EPA that they will submit to EPA by June 15, 1981 a summary of their literature search on mechanics training and their rationale for establishing a voluntary mechanics training program. RIDEM also reported in their letter that they will contract by July 15, 1981 with the RI Department of Education to develop the voluntary emission repair training program. In addition, by July 15, 1981, RIDEM will submit to EPA a detailed implementation schedule for this mechanic training program. EPA will review and comment on this material after it is received.

A mechanics training program can greatly enhance the cost-effectiveness and consumer protection aspects of an I/M program, therefore, EPA strongly encourages the State to promote a voluntary mechanics training program. As of this notice the State has not completed the literature search; therefore, Condition 2 of the NPR as it relates to this study has not been met.

4. Development and Implementation of a System Linking Vehicle Registration to Passing the Auto Emission Test

Because of its proven effectiveness, it is EPA policy that denial of vehicle registration to non-complying vehicles is an adequate mechanism for assuring that such vehicles are not driven on public roads. EPA recognizes that other mechanisms, such as a sticker system, may be developed which prevent the operation of non-complying vehicles as effectively as denial of registration. EPA, therefore, will approve any mechanism for assuring compliance with I/M program requirements by vehicle owners which is demonstrated to be equally as effective as a registration ban in preventing the operation of non-complying vehicles, using the criteria contained in the memorandum dated January 19, 1981, from Michael Walsh to the EPA Regional Offices.

The RIDEM August 20, 1980 submittal included a discussion of the problems associated with linking I/M to registration at this time. However, to date RI has not provided the documentation required to demonstrate that its sticker enforcement system is equally effective as a registration ban in preventing the operation of non-complying vehicles. This documentation must be submitted before EPA can determine the acceptability of this aspect of the RI I/M program. Therefore, Condition 2 of the NPR as it relates to this study has not been met.

5. Development and Implementation of a Roadside Check Program

The need to collect valid and accurate data during roadside checks, to have data collection procedures established for these checks, and to have reinspection for vehicles failed at roadside checks at the State referee station, was studied by RIDEM and RIDOT. A data collection system, discussed in item #1, is being implemented, and quality assurance procedures were to have been developed by July, 1980. As of this Notice, EPA has not received documentation of these procedures. The State's August 20, 1980 submittal provided a description of the existing system for reinspecting vehicles failed during roadside checks and the history of the development of these procedures. The submittal also offered reasons for the administrative reluctance to require failed vehicles to be rechecked at the State operated challenge facility. The roadside check program is a good supplement to the EPA I/M data collection requirements, but it cannot substitute for any part of these requirements. For instance, the data collected in the roadside check program cannot substitute for the data collected from the inspection stations for determining the I/M program's effectiveness. Nevertheless, quality assurance of this roadside check program is important. In their March 5, 1981 submittal, RIDEM indicated that the overall quality assurance procedures will be submitted by May 15, 1981. EPA cannot determine the acceptability of this element until the program documentation is received from RIDEM and reviewed. Therefore, Condition 2 of the NPR as it relates to this study has not been met.

6. Development and Implementation of Consumer Protection Elements

RIDEM and the RI Attorney General's Office have signed an agreement whereby the Attorney General's Office will conduct a survey of a portion of the inspection stations using an undercover vehicle to assess the performance of the inspection stations. The Attorney General survey is scheduled for completion late in 1981. EPA supports this study and feels that such studies should be an ongoing part of the surveillance of the licensed inspection stations. Condition 2 of the NPR as it relates to this study has been met.

7. Determination of the Need for a New Program To Evaluate Inspector Proficiency

New procedures to check the proficiency of each licensed garage inspector were to have been developed by RIDEM and RIDOT with implementation scheduled for August, 1980. In their March 5, 1981 submittal, RIDEM indicated that a new policy has been implemented by RIDOT whereby each inspector's proficiency in calibrating emissions analyzers would be checked at least once a year through the State's monthly station investigations. This requirement is a necessary part of assessing an inspector's proficiency. However, it is equally important to assess an inspector's proficiency in conducting emissions tests and in recordkeeping. Although EPA recommends that the State incorporate these evaluations into their monthly surveillance activities, Condition 2 as relates to the NPR has been met.

8. Development and Implementation of a Variance Procedure

The procedures for issuing a variance to those vehicles failing the emissions test was studied by RIDOT. The August 20, 1980, submittal discussed both the current method and a joint agency agreement by which RIDOT will annually inform RIDEM of the number of variances issued. If the number of variances granted annually becomes excessive, RIDEM will initiate an investigation to determine if program modifications are needed. Future modifications to the process will be considered if it appears that air quality is being impacted due to the variance procedures. The new procedure was implemented on January 1, 1981. In their March 5, 1981 submittal, RIDEM submitted the first annual report on variances from RIDOT. RIDOT indicated in their report to RIDEM that no variances were issued during 1980.

Vehicles in Rhode Island which receive variances or waivers cannot be claimed for emission reduction credits, unless the State can demonstrate that emission reductions are received from waived vehicles. This does not affect RI at this time, since RI has not yet issued any variances or waivers. Therefore, Condition 2 of the NPR as it relates to this study has been met.

9. Determination of the Desirability of Issuing Inspection Stickers at the Challenge Station

In the August 20, 1980 submittal, the State presented its views regarding the legislative background of this issue and the difficulties they feel are involved in having the challenge station issue inspection stickers to owners whose vehicles were inappropriately failed in inspection stations. RIDOT has indicated that it will continue to prohibit the issuance of stickers at the challenge station until the legislature provides direction to the contrary. EPA finds this position acceptable and, therefore, Condition 2 of the NPR as it relates to this study has been met.

10. Determination of the Extent of Fuel Switching

RIDEM and RIDOT jointly conducted a study last summer in conjunction with the RIDOT roadside check program to assess the extent of tampering 99th fuel inlet restrictors to allow fuel switching. RIDEM included a report on this study in their March 5, 1981 submittal. Since only 3 of the 250 vehicles analyzed during the study had altered fuel inlet restrictors, the report concluded that this was not a significant problem in RI at this time. Therefore, RI will not modify its I/M program at this time to require fuel inlet tampering checks. EPA agrees with these conclusions. Therefore, Condition 2 of the NPR as it relates to this study has been met.

The third condition in the NPR required a commitment from the State that any I/M program changes which occurred as a result of the refinements contained in the second condition were to be submitted to EPA as approvable SIP revisions within twelve months of the NPR. In the August 20, 1980 submittal the State committed to consider any future program modifications that may be shown to be necessary. However, the State has not submitted most of the documentation of program changes to EPA as SIP revisions. Therefore, Condition 3 of the NPR has not been met.

Rhode Island has met the basic requirements for the 1979 I/M SIP revision. As discussed previously, the I/M policy for the 1979 SIP includes requirements for legal authority, commitments to implement and enforce, resources, an implementation schedule, and the commitment to achieve the minimum requisite emission reduction. RI's legal authority for I/M is included in Chapter 31–38 of the RI Motor Vehicle Code. Further evidence of RI's legal authority and evidence of their commitments to implement and enforce the program and to provide adequate resources for the program are demonstrated by the fact that I/M has been a mandatory program in RI since January 1, 1979. In the August 20, 1980 submittal, RI also stated their commitments to continue the operation of the I/M program and achieve the 25% reduction. As noted above, the August 20, 1980 and March 5, 1981 submittals included schedules for the conduct of certain studies and implementation of certain program refinements to achieve the requisite reduction.

Today's action is not intended, nor should it be interpreted, as the final approval of RT's I/M program which is intended to result from the 1982 SIP process. Such approval can only be granted after the State has submitted the complete documentation of its I/M program into its SIP in accordance with EPA's 1982 SIP policy as discussed earlier in this notice. RI's 1982 SIP revision must reflect any final program modifications resulting from the Attorney General's study, the joint EPA/RI study, or other findings. In addition, the 1982 SIP revision must also include a demonstration that the RI I/M program, as modified, will achieve the required emission reduction by December 31, 1987.

The RIDEM August 1980, submittal committed to consider any future program modifications that may be shown to be necessary. Many of the studies identified in the submittal have been completed.

EPA has determined that the August 20, 1980, and March 5, 1981, submittals from RIDEM only partially fulfill the requirements of the conditions in the EPA December 7, 1979 NPR. As noted above however, the State, in the RIDEM March 5, 1981 submittal, has committed to submitting all the outstanding reports on the completed studies on or before July 15, 1981.

EPA recognizes that RI is continuing to evaluate their I/M program to identify and incorporate any additional necessary program refinements. For instance, the Attorney General's study discussed previously is scheduled for completion in late 1981. In addition, EPA and the State have had preliminary discussions about the possibility of jointly funding a study of the RI I/M program. Such a study would assist the State in further evaluating their program and would provide beneficial information of national importance on the implementation and operation of a decentralized I/M program.

In view of the above, EPA is taking final action today to approve the RI I/M program with the following conditions:

1. Submission by July 15, 1981 of the outstanding reports on all studies agreed to pursuant to the memorandum of understanding between RIDOT and RIDEM (except the study being performed by the Attorney General), and including all data collected, analyses performed, and documentation of new procedures;

2. Submission by January 1, 1982 of a SIP revision which includes:

(a) A complete description of all program modifications, both adopted and planned, resulting from the completed studies;

(b) A commitment and schedule to implement as expeditiously as practicable those necessary program modifications identified by these studies and agreed to by the State and EPA, and which have not been implemented by January 1, 1982.

F. Reasonable Further Progress (RFP)—Attainment of Standards—Request for Extension of Attainment Date for Ozone

In response to the six conditions set forth in the NPR, the state submitted material on January 8, 1980. This included a revised ozone attainment demonstration incorporating expected reductions from all CTG categories and the I/M program. In addition the RFP

demonstration was revised to reflect expected compliance dates for all sources and show the annual reductions from stationary and mobile sources were shown. However, with the exception of the I/M program, the air quality analysis of additional transportation measures was not completed and these reductions are therefore not included. The RFP schedule can be adjusted to include reductions from additional transportation measures when these reductions and their scheduling is known. Additionally, the growth increments used were specified. Based on the revised demonstration, an attainment date of 1987 resulted. Finally, the state agreed to participate in the Northeast Corridor Regional Modeling Project study. No comments were received on this section of the NPR. EPA believes that these responses to the conditions are adequate.

Action:

EPA approves this portion of the plan, including the extension of the attainment date for ozone to December 31, 1987.

G. Emission Inventories

In response to the Condition 1 set forth in the NPR, the state submitted on January 8, 1980 a list of VOC 100 ton actual emission sources, a revised summary of VOC emissions, and documentation of the sources of these emissions. The state also submitted on May 30, 1980 an inventory in NEDS format of all actual VOC sources. The inconsistencies which were mentioned in the NPR are being resolved during the first annual update of the inventory, and the procedures which will be used to update the inventory annually are acceptable.

The state has not submitted the emissions data for all potential 100 ton VOC sources as required by condition 2. The state has indicated to EPA that the format of their inventory makes identification of potential 100 ton sources virtually impossible, and committed to provide emissions data for all sources with actual emissions 25 tons or greater. EPA believes that submittal of all actual 25 tons/year or greater sources should provide data equivalent to that required by condition 2. The state has committed to submit this data by October 1, 1981. This data was initially required by March 1, 1981 to provide input to the Northeast Corridor Modeling project. Since this study has been delayed, submittal of this information is necessary primarily for the 1982 SIP revision submittal, and can be delayed. EPA finds this revised time schedule satisfactory.

In response to condition 3, the state submitted on January 2, 1981 an updated inventory for all other pollutants in NEDS format.

Action:

EPA is approving this portion of the SIP revision subject to the submittal by October 1, 1981 of emission data for all sources with actual emissions of 25 tons or greater.

H. New Source Permit Program

In the NPR, EPA proposed disapproval of the portion of the SIP revisions pertaining to review of new sources in non-attainment areas because the state did not have the legal authority and, therefore, did not adopt a regulation pursuant to Section 173 of the Clean Air Act. In the NPR, EPA set forth in detail the requirements contained in Section 173 for an approvable regulation.

Since the publication of the NPR, the state has obtained the necessary legal authority and has promulgated on April 13, 1981, *Air Pollution Control Regulation No. 9, Approval To Construct, Install, Modify or Operate* (Regulation 9) which went to hearing on August 20, 1980. Although Rhode Island is in the process of revising Regulation 9 to make it conform with changes to EPA's Regulation 40 CFR 51.18J published on August 7, 1980 (45 FR 52676), the April 13, 1981 version of Regulation 9 was submitted to EPA on April 16, 1981 in order to fulfill the requirements of Part D of the Act. This preconstruction review program assures that permits for proposed major sources and major modifications may be issued only if the requirements of Section 173 of the Clean Air Act are satisfied. Rhode Island's program regulates any new source or new physical or operational change to any source which may result in a potential to emit 100 tons or more of any air containment to the atmosphere.

EPA has reviewed Regulation 9 and finds that the regulation meets the requirements of Section 173, as set forth in the NPR and is approvable, except for the following: (1) There are two areas where EPA will be taking no action in this rulemaking; (2) there is one area where EPA will be conditionally approving the regulation; and (3) there are three areas where clarifications in the March 4, 1981 submittal from Rhode Island make it clear that the state regulation is consistent with EPA guidance and therefore approvable. Each of these findings is discussed below.

(1) Sections on Which EPA Is Taking No Action

EPA is taking no action on Subsection 9.2.3(b) of Regulation 9. This Subsection contains a grandfather provision which exempts sources which received permits after July 1, 1971 from having to refile an application and comply with Regulation 9 as a new source and thus could allow sources to construct and operate in violation of Section 110(a)(1) and 173 of the Act. Because EPA is taking no action on this subsection these sources must obtain new construction permits from the state which will contain the requirements imposed on new major sources or major modifications as specified in the remainder of Regulation 9 in order to be in compliance with the federally approved SIP revision.

EPA is also taking no action in Section 9.12 which addresses "Banking" of emissions. EPA is presently developing an agency policy on emission offset banking and trading and will take no action on the Rhode Island provisions until that policy is published.

(2) Sections Which EPA Approves With Conditions

As discussed below, Definitions 9.1.2 (Potential to emit), 9.1.3 (Potential to emit 100 tons per year of any regulated contaminant) and 9.1.5 (Major modification) are not collectively consistent with EPA guidance. Definitions 9.1.2 and 9.1.3 allow a source to consider control equipment effects when calculating "potential to emit" any air contaminant. This is consistent with the definitions in the regulatory changes effecting New Source Review in non-attainment areas published in the August 7, 1980 **Federal Register** (August 7, 1980 regulations) (45 FR 52743–52744). However, the August 7, 1980 regulations further define a modification as major if there is a significant increase in emissions (e.g., 40 TPY or greater for hydrocarbons). Definition 9.1.5 in the Rhode Island regulation is inconsistent with the August 7, 1980 regulation's definition of major modification because 9.1.5 defines a modification as major only when the cumulative effect is an increase in emissions of 100 tons or more per year. This makes 9.1.5 consistent with the January 16, 1979 Emission Offset Interpretative Ruling (EOIR) (40 CFR Part 51, Appendix S) which has been amended by the August 7, 1980 regulations (although the states are not required to revise their regulations to comply with the August 7, 1980 regulations until May 7, 1981). However, Definition 9.1.2 and 9.1.3 are not consistent with the EOIR because the EOIR does not allow control equipment to be used when calculating "potential to emit."

By using definitions from both the August 7, 1980 regulations and the EOIR,

the resulting Rhode Island regulation is less stringent than either because some modifications which are less than 100 tons per year would be exempt from Rhode Island's new source review requirements. For example, a hydrocarbon source with a modification of 60 tons per year with control equipment which is 50 percent effective (i.e. uncontrolled emissions are 120 tons per year) would not be considered a major modification under the Rhode Island regulation as presently drafted because there is not an increase in the potential to emit as defined in 9.1.2 of 100 tons per year or more. However, such a modification would be a major modification under the August 7, 1980 regulations because the potential to emit as defined in the August 7, 1980 regulations is greater than 40 tons per year. Such a modification would also be a major modification under the EOIR because the potential to emit as defined in the EOIR is greater than 100 tons per year.

Because of the foregoing problem with definitions 9.1.2, 9.1.3 and 9.1.5, the State has agreed to (a) revise Regulation 9 by September 1, 1981 so that it will be consistent with the definitions in the August 7, 1980 regulations; and (b) not issue any permits for any modifications if the net increase in emissions will be greater than those values for each pollutant as set forth in those regulations (45 FR 52745) unless that permit contains all the requirements for a major source or modification. EPA will condition its approval of Regulation 9 based upon these two commitments.

(3) Sections Which EPA Approves Based on Clarification in the March 4, 1981 Submittal

The March 4, 1981 submittal letter contained clarification on three definitions. First, it was unclear whether the definition of "major source" in 9.1.1 is in accordance with EPA's dual definition of "source" under either Section II.A.1 of the EOIR or the August 7, 1980 regulations (45 FR 52743–52744). Under the dual definition, a source may be either an individual piece of process equipment or the entire plant. In addition, a modification can occur at either an individual piece of equipment or at the plant as a whole. Under this scheme, even if a new piece of equipment is not subject to review as a major source in and of itself, it may be subject to review as a major modification of the plant as the source. In its March 4, 1981 submittal Rhode Island clarified Definition 9.1.1 by indicating that in practice the state uses EPA's dual definition for a major source.

Second, under the definition in Section 9.1.3(c), the state allows an operating hour restriction in an operating permit to limit the potential emissions to less than 100 tons per year based on the average number of hours that a source has operated in the previous five years. This operating permit is not federally enforceable. In the absence of 9.1.3(c), such a source wishing to modify its system would require a construction permit under 9.1.2 because it would be considered a major modification until the hours of operation are limited in an enforceable construction permit. Since there is an apparent conflict between 9.1.2 and 9.1.3(c), the state submitted a clarification of this definition which states that: (1) 9.1.3(c) applies only to existing sources for purposes of issuing operating permits; and (2) no major sources or modification will be exempt from needing a construction permit because of 9.1.3(c).

Finally section 173 of the Act requires that the proposed major source or major modification must comply with the lowest achievable emission rate (LAER) as defined in Section 171(3) of the Act. As provided in Section 171(3) of the Act, definition 9.1.8 sets forth two alternative bases (subsections 9.1.8(a) and 9.1.8(b)) for determining LAER and contains the phrase "Providing the approved emissions limit is no higher than limitations called for in a New Source Performance Standard." Section 171(3) of the act requires that the quoted language relate to both bases. Since it was unclear because of the placement of the quoted language in 9.1.8 whether the phrase related to either or both 9.1.8(a) or 9.1.8(b), the state has submitted a clarification that the phrase is intended to apply to both subsections.

EPA finds that the regulations, except 9.2.3(b), and 9.12, are approvable subject to the conditions set forth below.

Action:

(1) EPA approves Rhode Island's program for New Source Review (except for 9.2.3(b) and 9.12) with the following conditions:

a. By September 1, 1981 the state will revise the regulation so that it will be consistent with the definitions in 40 CFR 51.18 (45 FR 52743, August 7, 1980), and

b. The state will not issue any permit for any modification if the net increase in emissions will be greater than those values for each pollutant set forth at 40 CFR 51.18(j)(1)(xiii) (45 FR 52745, August 7, 1980) unless that permit contains all the requirements for a major source or modification.

(2) EPA is taking no action on 9.2.3(b).

(3) EPA is taking no action on 9.12.

I. Evidence of Public, Local and State Involvement

EPA proposed in the NPR to approve the public participation/intergovernmental consultation efforts that had been made to date. Additionally, EPA proposed to conditionally approve the SIP, based on a submittal by January 1, 1980, of a long term plan for public participation/intergovernmental consultation, as required in the grant conditions of Rhode Island's FY–1980 program grant under Section 105 of the Act. The state submittal meets the requirements of this condition.

On March 31, 1980 the state submitted a long-term plan for public participation which included:

1. A description of resources
2. A commitment to an annual work plan for public participation and subsequent evaluations of these plans
3. An identification of interested and affected constituencies, and a summary of how the issues could affect them
4. An identification of major program issues
5. A listing of public participation objectives for each issue
6. A listing of specific techniques to be employed to satisfy each objective
7. A commitment to utilize an evaluation procedure, to be developed by EPA (utilizing much of the materials contained in Rhode Island's submittal), and a summary of A–95 and other public comments
8. Provisions for compliance with the Public Notification (Section 127) Guidelines

The submittal also contained material required under Sections 121 and 127 of the Act. As discussed in Part II E and H of this Notice, EPA will be proposing action on this material in a separate rulemaking.

EPA also proposed to conditionally approve the SIP revisions based on the submission, by January 1, 1980, of a complete and expanded analysis of the effects of the SIP revisions and a summary of public comment on this analysis, as required by Section(s) 172(b)(9) (A) and (B) of the Clean Air Act.

In response to this condition, the March 31, 1980 submittal contained an identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions.

EPA received the following comments on its NPR from RILA:

1. Previous EPA requirements to the States for public participation lacked specificity. However, overall

endorsement was given on EPA's more recent guidelines which included provisions for both the development of an annual public participation plan and an identification of priority issues for public attention, interest groups affected by the issues, specific mechanisms to involve these groups, resources, and evaluation techniques.

2. It was felt that no SIP revision should be approved unless conformance to public participation requirements is clearly evident.

3. EPA was urged to give more widespread notice of its proposed rulemakings. At a minimum, it was suggested that members of the RIDEM Stationary Source Committee and RILA should receive notice of major Federal actions affecting the State's air quality program.

EPA feels that comments 1 and 2 have been fully incorporated in the state's submittal. Comment 3, requesting more widespread notice of proposed rulemakings, is a difficult issue to address since no alerting system is presently in place at EPA Headquarters. EPA is working with RIDEM on this issue.

EPA feels that this submittal represents a substantial and effective public participation effort and is approving this SIP revision.

Action:

EPA is approving this portion of the Rhode Island SIP revision.

J. Adoption After Notice and Hearing

Public hearings were held on January 30 and 31, 1979 following 30 days public notice. The regulations to implement the revisions have been adopted. Hearings were also held on November 27, 1979, after 30 days public notice, concerning amendments to Regulation 11 which were then submitted to EPA on March 10, 1980.

Hearings were also held on August 22, 1980 after 30 days public notice, concerning amendments to Regulation 9 which were then submitted to EPA on April 16, 1981.

Action:

EPA is approving this portion of the SIP revisions.

K. Resources

The state has not included in its SIP revisions a discussion of the resources necessary to carry out the mobile source related programs, but did include description of the existing and planned resources within RIDEM needed to carry out the planned programs for stationary sources.

RILA stated that the amount of resources information provided in the SIP revisions was so general as to appear that RIDEM might be incapable of enforcing the plan and suggested that EPA request more detailed data from the state. RILA also questioned whether RIDEM had sufficient manpower available to enforce the regulations.

Within the Section 105 grant application for fiscal year 1980 the state committed to implement the mobile and stationary source activities included in the SIP. EPA negotiated with the state and its grant funds were approved. Section 175 grant funds were also made available to the state to perform specific activities in transportation-air quality planning. These grant documents are available for public review at the EPA Region I office. EPA believes this commitment of resources for both mobile and stationary sources is adequate.

Action:

EPA is approving this portion of the SIP revision.

II. General SIP Revision Measures (Non-Part D SIP Revisions)

No public comments were received on issues A through F below except as noted under Section III of this Notice.

A. *Conflict of Interest*—Rhode Island General laws, Chapter 34–14 require the Governor, the Director of RIDEM and the Director of the Department of Health to disclose potential conflicts of interest. EPA finds this statute to meet the requirements of Section 128 of the Clean Air Act.

Action:

EPA is approving this portion of the SIP revisions.

B. *Prevention of Significant Deterioration*—Sections 160–169 in Part C and Section 110(a)(2)(D) of the Act contain provisions for the Prevention of Significant Deterioration (PSD) of air quality in those parts of the Nation where the air quality is better than required by NAAQS. Rhode Island did not submit regulations to adopt the PSD program although the SIP narrative indicates that a comprehensive PSD plan would be submitted in the future. Rhode Island's legal authority to set ambient PSD increments and to promulgate regulations for protecting these increments must be established prior to submission of the plan. EPA has recently amended its PSD regulations in response to Alabama Power Company v. Costle, 13 ERC 1225. Rhode Island must now propose and adopt new regulations in accordance with EPA's revised requirements in 40 CFR 51.24, as published August 7, 1980 (45 FR 52676). In addition, although a PSD program is a requirement of the Clean Air Act, it is not a requirement of the Part D provisions of the Act, and the omission of PSD regulations does not warrant disapproval of the state's attainment plan.

Action:

EPA is taking no action at this time.

C. *Comprehensive Air Quality Monitoring Network*—Section 110(a)(2)(C) and Section 319 require a comprehensive air quality monitoring network. Rhode Island submitted a SIP revision on January 8, 1980 in response to these requirements. It was reviewed and approved by FPA on January 15, 1981 (46 FR 3516).

Action: No action is necessary due to previous EPA action.

D. *Permit Fees*—Section 110(a)(2)(K) requires each state to institute a fee system for those sources applying for a permit to cover the administrative costs of reviewing that application as well as those incurred in monitoring and enforcing the permit conditions.

Because EPA has not yet promulgated regulations concerning the permit fee requirements, Rhode Island has not included this provision with the submittal. The state acknowledges its obligation to submit such a provision within 9 months of publication of the final regulations.

Action: EPA is taking no action at this time.

E. *Consultation*—Section 121 of the Act requires a state to provide a satisfactory process for consultation with local governments and federal land managers on the development of the SIP. A SIP revision was submitted to EPA on March 31, 1980 (See Section I.I above). EPA will address this submittal in a future rulemaking.

Action: EPA is taking no action at this time.

F. *Stack Height requirements*—Section 123 of the Act provides that the degree of emission limitation necessary may not be affected by stack height in excess of good engineering practice or by other dispersion techniques.

EPA proposed stack height regulations on January 12, 1979, but has not yet promulgated regulations.

Action: EPA is taking no action at this time.

G. *Interstate Pollution Notification Requirements*—Section 126 of the Act requires states to identify existing major sources which may significantly contribute to air pollution levels and to provide written notice to nearby states. In addition, states must do the same for any proposed major new stationary source or major modification.

Rhode Island has committed to notifying other states of proposed new major stationary sources which may affect their air quality but has not

indicated that the state has, in fact, notified nearby states of existing sources which currently may be impacting their air quality.

Action: EPA is taking no action at this time.

H. *Public Notification*—Section 127 of the Act requires each state to effect measures for notifying the public on a regular basis of instances or areas in which any primary standard is exceeded and to enhance public awareness of measures which can prevent the standards from being exceeded. A SIP revision was submitted to EPA on March 31, 1980 (See Section I.I above). EPA will address this submittal in a future rulemaking.

Action:

EPA is taking no action at this time.

III. Responses to General Comments

One commenter submitted extensive comments and requested that they be considered as part of the record for each State plan revision. Another commenter, a national environmental group, discussed EPA action on permit fee systems and the composition of State boards. Each of the points raised by these commenters and EPA's response have been published on January 10, 1980 (45 FR 2036, 2039 et. seq.)

IV. EPA Final Action

EPA is taking final action to approve conditionally certain elements of the Rhode Island submittal. A discussion of conditional approval and its practical effect appears in a supplement to the General Preamble on July 2, 1979 (44 FR 38583) and on November 23, 1979 (44 FR 67182). A conditional approval requires the State to submit additional materials by the deadlines specified in today's Notice. There will be no extensions of conditional approval deadlines which are being promulgated today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submission to determine if the condition is fully met. After review is complete, a **Federal Register** notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved the Section 110(a)(2)(I) restrictions on construction will be in effect.

3. If the State fails to timely submit the required materials needed to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth are in effect.

Accordingly, the Rhode Island Air Quality Implementation Plan Revisions received on May 14, June 11, and August 13, 1979 are approved as satisfying the requirements of Part D and Section 110(a)(2)(I), with the exception of the I/M program, the emission inventory section, the paper and fabric surface coating regulation and the program to review new sources in nonattainment areas (New Source Permit Program) which are approved conditionally.

The measures above which are approved or conditionally approved are in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations remain applicable and enforceable to prevent a source from operating without controls or under less stringent controls, while moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, which may include assessment of noncompliance penalties.

There are two main exceptions to this rule. First, if a pre-existing control requirement is incompatible with a new, more stringent requirement, the State may exempt sources from compliance with the pre-existing regulations during the period when compliance with the existing requirement conflicts with achieving compliance with the new requirement. Any exemption granted would be reviewed and acted on by EPA as a SIP revision. Second, an existing requirement can be relaxed or revoked if the revision will not interfere with attainment of standards.

The 1978 edition of 40 CFR Part 52 lists in the subpart for Rhode Island the applicable deadlines for attaining ambient standards required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on Rhode Island's attainment date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new Section 172 plan requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under part D.
>
> (123 Cong. Rec. H 11958, daily ed. November 1, 1977)

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.*

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatibility of requirements will be made on a case-by-case basis.

The Agency finds that good cause exists for making this action immediately effective for the following reasons:

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*See General Preamble for Proposed Rulemaking. 44 FR 20373-74 (April 4, 1979).

1. Implementation plan revisions are already in effect under state law and EPA approval imposes no additional regulatory burden;

2. EPA has a responsibility under the Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979, or as soon thereafter as possible.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it only approves state action and imposes no new regulations.

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

This rulemaking action is issued under the authority of Sections 110, 172, and 301 of the Clean Air Act, as amended.

Note.—Incorporation by reference of the State Implementation Plan for the State of Rhode Island was approved by the Director of the Federal Register on July 1, 1980.

Dated: May 1, 1981.

Walter C. Barber, Jr.,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart 00—Rhode Island

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

1. In § 52.2070, paragraph (c) is amended by adding subparagraph (12) as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

(12) Attainment plans to meet the requirements of Part D of the Clean Air Act, as amended in 1977, were submitted on May 14, 1979, June 11, 1979, August 13, 1979, January 8, January 24, March 10, March 31, April 21, June 6, June 13, August 20, November 14, March 4, March 5, and April 16, 1981. Included are plans to attain the carbon monoxide and ozone standards and information allowing for the redesignation of Providence to non-attainment for the primary TSP standard based on new data. A program was also submitted for the review of construction and operation of new and modified major stationary sources of pollution in non-attainment areas. Certain miscellaneous provisions unrelated to Part D are also included.

§ 52.2071 [Amended]

2. Section 52.2071 is amended by changing the wording "Photochemical oxidants (hydrocarbons)" to "Ozone".

3. Section 52.2072 is revised to read as follows:

§ 52.2072 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Rhode Island's plan, as identified in § 52.2070 of this subpart, for the attainment and maintenance of the national standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds the plan satisfies all requirements of Part D, Title I, of the Clean Air Act, as amended in 1977, except as noted below. In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by January 1, 1981 for the sources covered by CTGs issued between January 1978 and January 1979 and adoption and submittal by each subsequent January as additional RACT requirements for sources covered by CTGs issued by the previous January.

4. Section 52.2076 is revised to read as follows:

§ 52.2076 Attainment of dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information presented in Rhode Island's plan, except where noted.

Air quality control region [1]	Pollutant											
	TSP		SO_x		NO_x		CO		O_3			
	Primary	Secondary	Primary	Secondary								
Providence	e	e	a	b	a		c		d			
E. Providence	a	b	a	b	a		a		d			
Cranston	a	b	a	b	a		a		d			
Warwick	a	b	a	b	a		a		d			
N. Providence	a	b	a	b	a		e		d			
Pawtucket	a	b	a	b	a		a		d			
Central Falls	a	b	a	b	a		a		d			
Remainder of Rhode Island portion of AQCR 120.	a	b	a	b	a		a		d			

a—Air quality levels presently better than primary standards or area is unclassifiable.
b—Air quality levels presently better than secondary standards or area is unclassifiable.
c—December 31, 1982.
d—December 31, 1987.
e—Redesignation to non-attainment. Twelve months granted for submission of an attainment plan; attainment dates not yet proposed.

[1] Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR Part 52.2076 (1978).

5. Section 52.2081 is revised to read as follows:

§ 52.2081 Review of new sources and modifications.

Regulation 9, the Rhode Island program to review operation and construction of new and modified major stationary sources in non-attainment areas, except for Section 9.1.2 and subsection 9.2.3(b), is conditionally approved subject to submittal by September 1, 1981 of revised definitions which are consistent with 40 CFR 51.18(j)(1)(vi) and 51.18(j)(1)(xiii) (45 FR 52745). EPA is taking no action on 9.1.2 and 9.2.3(b).

6. A new § 52.2084 is added as follows:

§ 52.2084 Rules and Regulations.

(a) *Part D—conditional approval*—The May 14, June 11, and August 13, 1979, January 8, January 24, March 10, March 31, April 12, June 6, June 13, August 20, November 14, 1980, and March 4, March 5 and April 16, 1981 revisions are approved as satisfying Part D requirements under the following conditions:

(1) Submittal by October 1, 1981 of emission data for all VOC sources with actual emissions of 25 tons or greater.

(2) Submittal by January 1, 1982 of (i) documentation of studies conducted; (ii) the results of data collected and analyzed; and, (iii) a description of procedural I/M program changes as outlined in the August 1980 state interagency agreement.

(3) Submittal by July 1, 1981 of all individual compliance schedules for paper and fabric surface coating sources covered by Regulation 19 including a justification of need for any extensions beyond December 31, 1982.

(b) *Non-Part D—No Action*—EPA is neither approving nor disapproving the following elements of the revisions:

(i) The program to review new sources in attainment areas. (Prevention of Significant Deterioration)
(ii) Consultation.
(iii) Permit fees.
(iv) Stack height requirements.
(v) Public notification.

7. A new § 52.2085 is added as follows:

§ 52.2085 Extensions.

The Administrator hereby extends for 12 months from the publication of this notice, the statutory time table for submission of Rhode Island's plan for attainment and maintenance of the primary standard for particulate matter in the Providence primary standard non-attainment area (See 40 CFR 81.340).

PART 81—DESIGNATIONS OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.340 [Amended]

1. In § 81.340, the table entitled "Rhode Island—O_x" is amended to read "Rhode Island—O_3".

[FR Doc. 81-13802 Filed 5-6-81; 8:45 am]
BILLING CODE 6560-38-M

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Parts 1501, 1502, and 1508

Scoping Guidance

May 1, 1981.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information only; Publication of Notice of Availability of Memorandum to Agencies Containing Scoping Guidance.

SUMMARY: The Council on Environmental Quality, as part of its oversight of implementation of the National Environmental Policy Act, investigated agency and public experiences with the scoping process. This guidance document summarizes a series of recommendations which were distilled from this research. It contains no new legal requirements beyond those in the NEPA regulations. Notice is being published in the **Federal Register** in order to make the fruits of this project generally available and to encourage the use of better techniques for ensuring public participation and efficiency in the scoping process.

ADDRESS: Copies of the memorandum may be obtained from Michael Kane, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006; 202-395-5750.

FOR FURTHER INFORMATION CONTACT: Michael Kane; 202-395-5750.

Nicholas Yost,
General Counsel.

[FR Doc. 81-13820 Filed 5-6-81; 8:45 am]
BILLING CODE 3125-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-415; RM-3475]

Radio Broadcast Services; FM Broadcast Station in Naples, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 288A to Naples, Florida, as that community's fourth FM assignment, at the request of L. S. Vance.

EFFECTIVE DATE: June 22, 1981.

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

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

SUPPLEMENTARY INFORMATION:

Adopted: April 23, 1981.
Released: April 30, 1981.
By the Chief, Policy and Rules Division.

In the Matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Naples, Florida) BC Docket No. 80-415, RM-3475, Report and Order, (Proceeding Terminated).

1. Before the Commission is the *Notice of Proposed Rule Making*, 45 Fed. Reg. 51624, published August 4, 1980, proposing the assignment of FM Channel 288A to Naples, Florida, as that community's fourth FM assignment, at the request of L. S. Vance ("petitioner"). Petitioner filed comments in which he reiterates his intention to apply for Channel 288A if it is assigned to Naples. An opposition to the proposed assignment was filed by Sterling Communications Corporation ("Sterling"), permittee of Station WSGL (FM), Naples, Florida. Petitioner filed a reply to the opposition of Sterling.[1]

2. Naples (population 12,042),[2] in Collier County (population 38,040), is located on the Gulf coast of Florida, approximately 201 kilometers (125 miles) south of St. Petersburg, and 161 kilometers (100 miles) west of Miami. The city is currently served by one AM station and three FM stations.

3. In the *Notice*, we stated that although a similar request for a fourth assignment to Naples was rejected in 1976,[3] that earlier denial was not controlling because our assignment policies had been modified since that time. We stated that the assignment had been denied earlier because of our finding that Naples was too small a city to justify an additional assignment, but that the Commission's strict adherence to population criteria had given way to an emphasis on the proposed assignment's efficiency in terms of its preclusive effect on other communities. We were also influenced by the continued demand for another FM station in Naples despite the Commission's failure to grant an additional assignment earlier. Such demand indicates to us that the potential applicants believe that another station can survive. In its opposition, Sterling argues that factors other than the assignment's preclusive impact must be considered as well. Sterling asserts that an additional assignment to Naples is unwarranted because Naples is already well served by the three existing FM stations operating there. According to Sterling, the Commission earlier denied a fourth assignment after finding this to be true, and nothing has changed to make the Commission reconsider that finding. Sterling further states that the proposed assignment would result in an unfair distribution of available frequencies in the area and thus be in conflict with the Commision's statutory mandate to provide a fair, efficient, and equitable distribution of radio service.[4] In summary, Sterling argues that the lack of demonstrated growth in Naples, the adequate service presently available in Naples, and recent Commission precedent, all lead to the conclusion that the proposed assignment should be denied.[5]

4. In response to Sterling's comments, petitioner counters that the efficiency of an assignment cannot be judged by considering one community in a vacuum,

[1] Petitoner's reply was submitted one week after the comment filing period had passed. Because no party has objected to the late filing and accepting the filing will not delay the proceeding, the reply comment has been accepted.

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

[3] *Naples, Florida*, 41 FR 44427 (1976).

[4] 47 U.S.C. Section 307(b).

[5] Sterling cites no Commission precedent other than the previous Naples case.

but must be judged in light of the assignment's effect on other communities as well. Petitioner points out that Channel 288A could be assigned to only four other communities currently without an assignment and that additional channels are available for assignment to those cities. Petitioner thus argues that the assignment of Channel 288A to Naples represents an efficient use of the frequency. Finally, petitioner avers that Sterling's arguments are based on nothing more than the Commission's population guidelines, which, according to petitioner, have utility only when the Commission is faced with competing demands and channel shortages. Because neither of these are present in the instant case, petitioner states that the channel should be assigned in order to afford additional service to the public.

5. As we stated in the *Notice*, the Commission has generally adopted channel assignments in excess of its population guidelines when an interest has been expressed for the channel and the assignment does not cause significant preclusion. This policy of focusing attention on the needs of communities in the precluded areas, and making additional assignments when preclusion is deemed insignificant, recognizes that the public interest is not served by reserving FM channels in perpetuity. In fact, the public interest is better served by putting the heretofore unassigned channel to use. A clear statement of the rationale behind the Commission's assignment policy was made in *St. Simons Island and Waycross, Georgia*, 47 R.R. 2d 319, 322 (Broadcast Bureau, 1980):

> This trend is not a radical departure from the Commission's position on what constitutes an equitable distribution of frequencies. Rather, if recognizes that in a situation where there are no precluded communities more deserving of the assignment, to refuse to respond to a demand for an additional station, may not serve the public interest.

In the instant situation, no interests have been expressed in assigning Channel 288A to any of the communities which would be precluded by assigning that channel to Naples. Furthermore, it appears that, even if an interest were expressed, alternative channels would be available for assignment to those precluded communities. Given this and the fact that an interest has been expressed in the Naples assignment, we find that the public interest would be served by assigning Channel 288A to Naples. This action, in our judgment, constitutes a much efficient use of the spectrum than continuing to reserve the channel indefinitely.

6. Accordingly, it is ordered, That effective June 22, 1981, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Naples, Florida	228A, 233, 249A, 288A

7. Authority for the action taken herein is contained in §§ 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Commnications 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 Michael A. McGregor, 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.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-13795 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-200; RM 3322]

Radio Broadcast Services: FM Broadcast Station in Lewiston, Idaho; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein amends the FM Table of Assignments, by assigning Channel 268 to Lewiston, Idaho, in response to a petition filed by The Call of the Cross Bill Dawkins Evangelistic Association. The assignment could provide a third FM station to Lewiston.

EFFECTIVE DATE: June 22, 1981.

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

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

SUPPLEMENTARY INFORMATION:

Adopted: April 23, 1981.

Released: April 29, 1981.

By the Chief, Policy and Rules Division.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Lewiston, Idaho), BC Docket No. 80-200, RM-3322, Report and Order, (Proceeding Terminated).

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 45 Fed. Reg. 32028, published May 15, 1980, which proposed the assignment of Class C Channel 258 to Lewiston, Idaho, in response to a petition filed by The Call of the Cross Bill Dawkins Evangelistic Association ("petitioner"). Supporting comments were filed by the petitioner in which it expressed its continuing interest in applying for the channel, if assigned. Comments were also filed by the Independent School District No. 1, Lewiston, licensee of Radio Station KLHS-FM, Lewiston, Idaho ("KLHS").

2. Lewiston (population 26,068),[1] seat of Nez Perce County (population 30,376), is located approximately 142 kilometers (88 miles) southeast of Spokane, Washington. Lewiston is an important agricultural, industrial and tourist center. In addition, it is Idaho's only inland seaport, catering to diverse commercial interests. The town is served locally by full-time AM Stations KOZE and KRLC and by FM Station KOZE-FM (Channel 244A). There is also a currently unused assignment on Channel 295 for which three applications are pending.[2]

3. A preclusion study indicates that seven communities with populations greater than 1,000 would be precluded from using Channels 257A, 258, and 261A as a result of the proposed assignment. However, alternate channels appear to be available for assignment to all of the communities.

4. In the *Notice*, it was pointed out that assignment of Channel 258 requires a separation of 32 kilometers (20 miles) to Channel 205A, for which KLHS has a pending application. At that time, we noted that it may be necessary to find another frequency for the proposed Class A operation unless the proposed Lewiston assignment is used more than twenty miles from Station KLHS's site for Channel 205A. In its comments,

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

[2] The applications are BPH-800421AH, filed By KRLC, Inc.; BPH-800710AA, filed by Nez Perce Broadcasting; BPH-800829AB, filed by Seaport Broadcasters, Inc.

KLHS stated that while a change in transmitter site is not feasible, it would consider a frequency change if petitioner would pay the expenses. A study conducted by the staff indicates, however, that there are no noncommercial channels for KLHS, but that Class C Channel 268 is available for assignment to Lewiston without any site restrictions.

5. After careful consideration of the proposal and comments, the Commission believes it would be in the public interest to assign Channel 268 for Lewiston, Idaho, as its third commercial FM assignment. While Lewiston's population does not warrant three assignments, the existence of three pending applications on Channel 295 demonstrates the abundance of interest in operating an additional radio station there and the insignificant nature of the preclusion impact from this assignment justifies exceeding the population guidelines. *See, Waycross, Georgia*, 45 Fed. Reg. 25806, published April 16, 1980.

6. In view of the foregoing and pursuant to authority contained in §§ 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, it is ordered, That effective June 22, 1981, § 73.202(b) of the Commission's Rules is amended, with respect to the community listed below, as follows:

City	Channel No.
Lewiston, Idaho	244A, 268, 295

7. Canadian concurrence in this assignment has been obtained.

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

9. For further information concerning this proceeding, contact Mark Lipp, 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.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-13805 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 83

Temporary Waiver of the Requirement for Vessels of 1600 Gross Tons and Over To Carry Specified Tools, Test Instruments, Spares and Manuals

AGENCY: Federal Communications Commission.

ACTION: Temporary waiver of section of final rule.

SUMMARY: This document temporarily waives a section of the FCC rules (47 CFR 83.465(c)) for vessels of 1600 gross tons and over which are required to carry radar. In that it appears that certain materials required by the subject rule are unavailable, the Chief, Private Radio Bureau waived the subject rule until November 30, 1981, to allow further investigation.

DATES: This waiver becomes effective on April 27, 1981, and will remain in effect until November 30, 1981.

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

FOR FURTHER INFORMATION CONTACT: Charles D. Fisher, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

In the matter of temporary waiver of the requirement contained in § 83.465(c) of the rules for vessels of 1600 gross tons and over to carry specified tools, test instruments, spares and manuals.

Adopted: April 27, 1981.

Released: April 28, 1981.

By the Chief, Private Radio Bureau.

1. The Report and Order in Docket No. 18948 and Gen Docket No. 80-108 adopted March 11, 1981,[1] implemented certain provisions of the International Convention for the Safety of Life at Sea, 1974, regarding compulsory carriage of radar on board vessels of 1600 gross tons and over. Section 83.465(c) which was adopted in that proceeding requires carriage of specified tools, test instruments, spares and manuals.

2. It has come to our attention that certain of the specified materials are not currently available. In that no harm will result from a temporary waiver of § 83.465(c) we feel it is in the public interest to temporarily relieve affected vessel operators from such requirements pending further investigation.

3. Accordingly, it is ordered, That, under the authority contained in Section 0.331 of the Commission's rules, § 83.465(c) is waived until November 30, 1981.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 81-13733 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

[1] FCC 81-97, 46 FR 18984.

DEPARTMENT OF TRANSPORTATION
National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 76-06; Notice 10]

Federal Motor Vehicle Safety Standards; Speedometers and Odometers

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice delays for one year the effective date of the odometer requirements of Safety Standard No. 127, *Speedometers and Odometers*. The new effective date for those requirements is September 1, 1982, i.e., model year 1983. NHTSA is taking this action because its review of the Standard leads it to the tentative conclusion that the Standard is unlikely to yield significant safety benefits. Based on that tentative conclusion, the agency will soon issue a proposal to rescind the Standard. The agency therefore believes that it is inappropriate to require vehicle manufacturers to continue their efforts to comply with the odometer requirements. Those requirements become effective in four months. The one-year delay relieves the vehicle manufacturers of the necessity for making further expenditures. The delay also permits the agency to maintain the status quo while the agency conducts a rulemaking proceeding on the proposal to rescind Standard No. 127.

DATE: The new effective date for the odometer requirements in paragraphs § 4.2 through § 5.2 is September 1, 1982.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice numbers and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. John Carson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION: Safety Standard No. 127, *Speedometers and Odometers* (49 CFR 571.127), specifies requirements for the manufacture and installation of speedometers and odometers. The purpose of the standard is to ensure that each motor vehicle is equipped with instruments for monitoring driving speeds, aiding in maintaining proper vehicle maintenance schedules, and providing an indication

of the degree of wear and tear to which the vehicle's safety-related systems have been subjected. The standard applies to passenger cars, multipurpose passenger vehicles (MPV's), trucks, motorcycles, and buses, and to speedometers and odometers for use in these vehicle types. However, the odometer provisions do not apply to vehicles having a gross vehicle weight rating greater than 16,000 pounds. The speedometer requirements became effective September 1, 1979, while the odometer requirements do not take effect until September 1, 1981.

There are three principal odometer requirements. First, odometers must indicate when they have advanced or have been advanced beyond a reading of either 89,999 or 99,999 miles/kilometers. Second, they must either prevent reversal or provide an indication that they have been reversed. This tamper resistance may be provided in any one of several ways. Odometers may be designed so that (a) if reversal is attempted, the odometer breaks so as to impair the recording of distance; (b) an encapsulation must be pierced or broken so that reversal can be achieved; (c) some definitive indication of reversal, such as the appearance of an otherwise hidden part, is provided when reversal is attempted; or (d) each number on the 10,000 miles/kilometers wheel is marked as or after it disappears from view so that the mark becomes visible if the wheel is reversed. Third, the standard requires that replacement odometers be differentiated from original equipment odometers so that new replacement odometers with low distance readings cannot be substituted for original equipment odometers with high mileage readings.

As a result of the agency's review of its safety standards in the past several months to determine if they have achieved or are likely to achieve their objectives and meet the criteria of the National Traffic and Motor Vehicle Safety Act, NHTSA is issuing this notice to delay the effective date of the odometer requirements by one year. Further, the agency will soon propose to rescind Standard 127 altogether. The legislative history of the Act indicates that Congress contemplated that only those aspects of vehicle performance involving significant safety problems would be regulated. However, the agency's review leads it to the tentative conclusion that the standard is not yielding and cannot be expected to yield either measurable or significant safety benefits.

When the odometer requirements were issued, it was anticipated that they would promote vehicle safety by reducing odometer tampering and thereby reducing the number of used-vehicle buyers who would be misled about the age and condition of their vehicles. The agency believed that the mileage of a car is an important indicator of the vehicle's operating condition. Knowledge of the actual mileage is necessary if vehicle owners are to follow the manufacturers' recommended preventive maintenance schedules and have the necessary safety-related repairs made. If an odometer is altered so that it understates a vehicle's total mileage, the agency thought that the purchaser of the vehicle might be lulled into a false sense of security about the condition of the vehicle. As a result, the purchaser might fail to check his or her vehicle adequately, forego preventive maintenance or be unwilling to invest in needed repairs. Failure to prevent, detect or correct defects in the vehicle could result in an accident that causes death, injury or property damage. In its 1976 economic impact analysis of the Standard, the agency estimated that the odometer provisions could prevent 660 accidents each year. This figure was based on compliance by all cars, multi-purpose passenger vehicles, etc., on the road and on the assumption that the requirements were 25 percent effective in preventing tampering.

The belief that the odometer requirements would produce safety benefits was based on the agency's analysis of several studies. One showed that some of the vehicle system failures and defects which cause accidents occur as a function of vehicle mileage. The agency believed that owners of vehicles with seemingly low mileage could reasonably expect that their vehicles had safer components than those of vehicles having higher mileage. The incorrect belief by a used vehicle purchaser that his or her vehicle has low mileage was thought to cause a false sense of secruity that would cause systems defects and failures to go undetected by the purchaser. NHTSA also relied on studies indicating that vehicle component failures and defects are a cause of approximately 8 percent of the motor vehicle accidents. Thus, it was thought that knowledge of correct vehicle mileage would reduce such accidents.

The agency's recent review of Standard 127 leads it to the tentative conclusion that the odometer requirements will not yield the anticipated safety benefits. The re-examination of the studies and analysis underlying the odometer requirements indicates that some of the problems with vehicle systems most responsible for causing accidents do not occur as a function of vehicle mileage. Further, many of the defects and failures involving these systems develop gradually and are either readily visible or manifest themselves to the driver when the vehicle is being driven. The agency has tentatively concluded that correction of these readily detectable defects and failures does not depend to any significant extent on the vehicle owner's knowledge of the correct mileage. Further, even if the owner is misled about the mileage of a vehicle, he or she is not likely to fail to notice these defects, especially those which manifest themselves during driving.

The agency has examined the impacts of this limited delay and determined that the notice is not major within the meaning of E.O. 12291 or significant with the meaning of the Department of Transportation regulatory policies and procedures. A regulatory evaluation regarding these impacts has been prepared and placed in the public docket. Copies are available in the Docket Section at the address given at the beginning of this notice for submission of petitions for reconsideration.

NHTSA's examination of these impacts shows that there would be very limited, if any, impacts on safety from the one-year delay. Notwithstanding the one-year delay, the vehicles subject to the odometer requirements have long had odometers and therefore can be expected to continue to be equipped with them. Given the efforts already made by the vehicle manufacturers to comply with the odometer requirements for model year 1982, it is possible that at least some of the odometers in model year 1982 vehicles will incorporate improved tamper resistance features. However, even if they do not, NHTSA does not believe that safety will be adversely affected. As noted above, feducing the incidence of tampering is not believed likely to have a significant effect on the detection of defects and failures in used vehicles.

Although non-safety impacts are beyond the purview of the Vehicle Safety Act, the agency has considered them. The one-year delay is likely to result in more tampering than there otherwise would be with the odometers of used model year 1982 vehicles. The increased tampering would cause an increase in the amount of economic injury to consumers as a result of their overpaying for used vehicles with altered odometer readings. However, since the agency lacks even rough

estimates of the effectiveness of the anti-tampering features, the agency is unable to estimate either the amount of the increase in tampering or the resulting amount of economic injury.

NHTSA estimates that the one-year delay will create economic benefits for vehicle manufacturers and the purchasers of model year 1982 vehicles. At least one vehicle manufacturer will be able to defer some capital expenditures. Ford Motor Company indicates that a one-year delay would enable them to save $500,000 in investment costs if the delay were adopted by May 1. There may be other manufacturers which can defer some capital expenditures. Capital savings are apparently not possible for General Motors. It wrote the agency in August 1980 indicating that its capital expenditures would be fully made by January 1, 1981. If General Motors adhered to that schedule, it has no remaining capital expenditures to be made. In addition, there would be variable cost savings. Ford has stated that the one-year delay would result in a variable cost savings of $2,000,000 or approximately $.75 per vehicle. The variable cost per vehicle for other manufacturers may be higher or lower. However, the Ford figure can be used to calculate very roughly the amount of variable cost savings that might be available to all manufacturers. Assuming a sale of 13,400,000 vehicles (10,400,000 cars and 3,000,000 trucks, buses, vans, etc.) in model year 1982, the variable cost savings for all manufacturers would be about $10,000,000. Since Ford and perhaps other manufacturers can postpone some capital costs, the total savings would be somewhat higher. Some of these savings to vehicle manufacturers may be offset if they respond to the one-year delay by cancelling contracts for Standard No. 127 odometers. Cancellation of supply contracts typically necessitates the payment of cancellation costs to supplier.

The potential consumer cost savings from the one-year delay is approximately $29,000,000. The figure was calculated using the 13,400,000 production figure and $1.50 as the per vehicle figure for model year 1982 variable costs and amortized capital costs. Those consumer benefits would be offset to the extent that consumers overpay in purchasing used model year 1982 vehicles whose odometers would not have been reset had not the odometer requirements been delayed until the following model year.

Odometer manufacturers capable of either continuing to supply the current types of odometers or providing new Standard No. 127 odometers should not be substantially affected by the one-year delay. If the profit from selling Standard No. 127 odometers is greater than that from current odometers, then the odometer manufacturers sales revenues will be reduced. This loss would be partially offset by receipt of cancellation payments from the vehicle manufacturers.

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. NHTSA concludes that the one-year delay will not have a significant effect on a substantial number of small entities. Accordingly, no regulatory impact analysis has been prepared. Based on available information, the agency believes that few, if any, of the odometer manufacturers are small businesses as that term is defined for the purposes of the Flexibility Act. Small organizations and governmental jurisdictions which purchase fleets of motor vehicles would not be significantly affected by the delay. Since they typically buy new vehicles, those entities would not be subject to the problems of odometer tampering. Further, the difference in cost of those vehicles from vehicles with Standard No. 127 odometers would be insubstantial at most.

NHTSA has analyzed the one-year delay for the purposes of the National Environmental Policy Act and determined that it will not have a significant effect on the human environment. An environmental assessment to support this finding has been placed in the public docket.

This final rule is being issued without prior notice and opportunity for comment because the agency finds that taking those procedural steps is impracticable and contrary to the public interest in this case. The vehicle manufacturers are still in the process of making expenditures to comply with the odometer requirements which were scheduled to become effective in less than four months. Among the expenditures are those for the purchase of Standard No. 127 odometers for installation in model year 1982 vehicles. Given the agency's tentative conclusions about the insignificant safety benefits of the odometer requirements, NHTSA believes that it is inappropriate to require the manufacturers to continue making those expenditures. The agency believes that were NHTSA to have first issued a notice of proposed rulemaking and provided a comment period (normally 45 days in length), much of those expenditures would be made by the time a final rule could be issued. As a result, the value of a one-year delay would be substantially vitiated. As noted above, the one-year delay is not expected to have any significant effect on safety. Further, the economic effects of the delay are anticipated to be fairly limited.

Although notice and comment are not being provided for the limited delay in the odometer requirements, they will be provided for the larger question of whether those requirements ought to be rescinded altogether. In the very near future, the agency will issue a proposal seeking comment on rescission and on the agency's tentative conclusions regarding the safety value of the speedometer and odometer requirements.

The officials primarily responsible for this notice are John Carson, Office of Vehicle Safety Standards, and Joan M. Griffin, Office of Chief Counsel.

In consideration of the foregoing, the effective date of paragraphs S4.2 through S5.2 of 49 CFR 571.127 is delayed one year until September 1, 1982.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on May 1, 1981.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 81-13824 Filed 5-4-81; 2:45 pm]

BILLING CODE 4710-59-M

Proposed Rules

Federal Register
Vol. 46, No. 88
Thursday, May 7, 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.

DEPARTMENT OF ENERGY

Office of the Assistant Secretary for Conservation and Renewable Energy

10 CFR Part 459

[Docket No. CAS-RM-81-127]

Residential Energy Efficiency Program; Compliance With the Regulatory Flexibility Act

AGENCY: Department of Energy; the Assistant Secretary for Office of Conservation and Renewable Energy.

ACTION: Notice of Compliance with the Regulatory Flexibility Act.

SUMMARY: The Department of Energy gives notice of its determination that the proposed rule published on January 26, 1981, to implement the Residential Energy Efficiency Program (REEP or Program) (46 FR 8016) does not require initial regulatory flexibility analysis pursuant to the Regulatory Flexibility Act. The Department of Energy is requesting comment on its determination not to develop an initial regulatory flexibility analysis on this program.

DATES: Written comments on this notice must be received on or before June 8, 1981, 4:30 e.s.t. in order to ensure their consideration.

ADDRESSES: Fifteen copies of comments should be submitted to Carol Snipes, Office of Conservation and Solar Energy, Department of Energy, Room 1F-085, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Comments should be identified on the envelope and in the documents submitted with the designation "Residential Energy Efficiency program, [Docket No. CAS-RM-81-127]."

FOR FURTHER INFORMATION CONTACT:
Lisa Cannon, Building Conservation Services, Department of Energy, Room GH-068, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9161.

Daniel Ruge, Office of General Counsel, Room 6B-144, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9519

SUPPLEMENTARY INFORMATION: On January 1, 1981, the Regulatory Flexibility Act (Pub. L. 96-354) became effective. In part, the Act requires agencies to prepare an initial regulatory flexibility analysis for any proposed rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that a regulatory flexibility analysis is not required for a particular rule, the agency must publish a certification and explanation of that determination in the **Federal Register.**

On January 26, 1981, DOE published in the **Federal Register** a proposed rule (46 FR 8016) to implement the REEP pursuant to subtitle C of Title V of the Energy Security Act (Pub. L. 96-294). Because the program will involve a maximum of four projects, no more than a limited number of small entities are expected to be affected by the proposed program. (Additionally, any adverse impacts upon small entities should be minimized by the proposal's provision, if made final, requiring the use of independent local subcontractors to install materials within each project.) Moreover, section 264(b) (3) of the Energy Security Act requires DOE to take into consideration, in approving an application, the anticipated effects of the program on competition in the geographic area of the demonstration. For these reasons, pursuant to section 605(b) of the Regulatory Flexibility Act, it is certified that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C., April 30, 1981.

Frank DeGeorge,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 81-13848 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-81-8]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before: July 7, 1981.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ————, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:
The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on April 28, 1981.

Edward P. Faberman,

Assistant Chief Counsel, Regulations and Enforcement Division, Federal Aviation Administration.

Petitions for Rulemaking

Docket No	Petitioner	Description of the rule requested
21371	Southlake Aviation Inc.	Petitioner requests amendment of 14 CFR 61.109(b)(2) to allow the required cross-country flight to consist of three segments of more than 100 nautical miles each with a landing at an airport at the end of each segment. Each of the airports involved would be required to be at least 75 nautical miles, in a straight line from each of the other two airports. The petitioner states that the rule change is needed to provide better training of students with increased safety by allowing greater flexibility in the choice of destination airport where maximum radio and radar work with control facilities is available. A more flexible route of flight of 101 nautical miles with a destination at a large field offering ATIS, TRSA, Tower and Ground Control would be significantly better training than a flight of 101 nautical miles in a straight line to an uncontrolled field with minimum or no radio work.

Petitions for Rulemaking: Denied

None this period.

[FR Doc. 81-13450 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ASO-17]

Proposed Alteration of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter a low altitude airway. The proposed change will eliminate the segment of V-7 from Cross City, Fla., via Greenville, Fla., to Wire Grass, Ala., and redefine it via Tallahassee, Fla., to Wire Grass. This proposed alteration is responsive to current traffic flow requests and will provide an economical advantage to both VFR and IFR aircraft.

DATE: Comments must be received on or before June 8, 1981.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 81-ASO-17, Federal Aviation Administration, P.O. box 20636, Atlanta, Ga. 30320.

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81-ASO-17." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs, should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter a low altitude airway. This proposed change will eliminate the segment of V-7 from Cross City, Fla., via Greenville, Fla., to Wire Grass, Ala., and redefine it via Tallahassee, Fla., to Wire Grass. Most aircraft operating between Cross City and Wire Grass request and receive a direct routing. This proposed alteration will be responsive to requested traffic flows, will provide an economical advantage to both VFR and IFR aircraft, reduce controller/pilot workload, and reduce radio frequency congestion. The description of this airway under Part 71 was republished on January 2, 1981 (46 FR 409).

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend V-7 as published under § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), as republished (46 FR 409), by deleting the words "Greenville, Fla." and substituting for them the words "Tallahassee, Fla."

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 134(a) and 135(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on April 28, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-13448 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 81-AGL-3]

Proposed Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter Jet Route No. 60 between Joliet, Ill., and Cleveland, Ohio, by realigning the route over Goshen, Ind. Aircraft have been experiencing some difficulty remaining on the route centerline, thereby causing some air traffic control problems for departures from the Chicago, Ill., area. This action increases aviation safety by utilizing an additional navigational aid which enables aircraft to maintain J-60 centerline in the area.

DATE: Comments must be received on or before June 8, 1981.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA Great Lakes Region, Attention: Chief, Air Traffic Division, Docket No. 81-AGL-3, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018.

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81-AGL-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs, should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Route No. 60 between Joliet, Ill., and Cleveland, Ohio. The signal strength in this segment of J-60 is marginal causing some aircraft to stray off the centerline. It is essential aircraft fly the centerline while in the vicinity of Chicago, Ill., metro airports. The proposed realignment is from Joliet, to Goshen, Ill., to Cleveland. This action will improve safety in this area and aid air traffic control.

Note.—Cleveland VORTAC will be renamed "DRYER" effective June 11, 1981. The final rule will reflect this name change. The description of this jet route under Part 75 was republished on January 2, 1981 (46 FR 834).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75), as republished (46 FR 834), by amending Jet Route No. 60 by deleting the words "Joliet, Ill.; Cleveland, Ohio;" and substituting for them the words "Joliet, Ill.; Goshen, Ind.; Cleveland, Ohio;".

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(a)]; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on April 28, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-13449 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published to comply with the Federal Trade Commission Improvements Act of 1980, Pub. L. 96-252 and the Regulatory Flexibility Act, Pub. L. 96-354. Each item reflects the Bureau of Consumer Protection's assessment of events that it expects will occur in the listed proceedings sometime during the coming year. No Commission determination on the need for or the substance of a trade regulation rule or any other procedural option should be inferred from inclusions.

Several of the items concern proceedings that potentially may affect a substantial number of small businesses as that term is used in the Regulatory Flexibility Act. Such proceedings are indicated in this agenda by the term "Regulatory Flexibility" immediately below the title for the proceeding. Whether any such proceeding will result in a rule which is likely to have a significant economic impact on such entities depends upon final Commission determinations on the

need for or on the substance of a trade regulation rule.

The views expressed in these entries are those of the FTC staff, based upon information now available. These views should not be regarded as a final staff position, nor should they be attributed to the Commission itself. The Commission will address the issues presented when it considers each staff proposal.

Each agenda item is based on projected timing of future Commission action. Discovery of new information, changes in circumstances or in the law may alter the projected dates.

FOR FURTHER INFORMATION CONTACT: Richard C. Foster, Deputy Director for Operations, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3355.

SUPPLEMENTARY INFORMATION:

FOOD ADVERTISING

(39 FR 39842, Nov. 11, 1974; 40 FR 23086, May 28, 1975; 41 FR 8980, Mar. 2, 1976)

The Rule

The rule would promote accuracy in food advertising claims by standardizing certain terms and requiring disclosure of material information in the following areas: natural food claims; energy and weight control claims; and fat, fatty acid, and cholesterol claims. Foods could be advertised as natural, if such foods contain no artificial or synthetic ingredients and are no more than minimally processed. If a food has been more than minimally processed, it could nonetheless be advertised as natural, if either the processed ingredients or the processes themselves are disclosed. Additionally, natural foods could not be advertised as inherently superior simply because they are natural.

Advertisements making energy claims would have to disclose that the claims mean that the food provides calories. Weight control claims would have to disclose the number of calories in a serving of the advertised food (unless the food meets FDA standards for a "low calorie" food).

Finally, the rule would deal with two types of fatty acid and cholesterol claims: content claims, which simply state the content (*e.g.*, no cholesterol), and health-related claims which refer to heart or artery disease. As to content claims about cholesterol or fatty acids, the rule would require disclosure of either the amounts of the other dietary constituents thought to be related to heart and artery disease or, in broadcast media, a disclosure that the advertised food contains these other components and the label may be consulted for precise information.

As to health related claims, the rule would prohibit certain claims that are unsubstantiated or false. All remaining claims in this area may be made, so long as the advertisement discloses the existence of a scientific controversy concerning the relationship between fat and cholesterol in the diet and the risk of heart or artery disease.

The staff is presently writing a statement of basis and purpose and related documents.

Objectives

The rule is designed to ensure that consumers have accurate and reliable information on nutrition quality by preventing deception in food advertising. The "natural food" section is intended to remedy the deceptive use of the claim that a food is "natural." The energy section would prevent consumers from being misled into believing that something special in the food provides energy, when, in fact, it is the caloric content of the food which determines the energy it provides. Weight control claims would trigger a disclosure to consumers that would permit them to choose foods based on accurate information. Fatty acid and cholesterol claims would be limited to prevent deceptive claims relating to heart or artery disease. Advertisers would be prevented from deceptively overstating the health benefits of particular foods.

Legal Authority

Federal Trade Commission Act, sections 5, 12, 15 and 18, 15 U.S.C. 45, 52, 55 and 57(a).

Timing

Final Commission Action—July, 1981.

Responsible Person

Melvin H. Orlans, Division of Food and Drug Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1529.

AMENDMENT TO TRADE REGULATION RULE CONCERNING PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES ("HOLDER-IN-DUE-COURSE RULE")

16 CFR Part 433 (40 FR 53506, November 18, 1975)

Regulatory Flexibility

The Amendment

The original rule, which took effect in May of 1976, requires sellers to ensure that credit contracts used in consumer installment sales and purchase money loans (loans made to finance a purchase from a seller with whom the lender has a working relationship directed at consumer sales) contain a provision which makes any holder of the contract subject to all legal claims and defenses related to the sale transaction which the buyer may have against the seller.

The amendment would extend to creditors who make purchase money loans or purchase retail installment contracts the obligation to ensure that credit contracts contain the required provision. The amendment also would make a number of technical revisions in the rule, including:

1. The definition of "purchase money loan" and certain associated terms would be clarified but the underlying meaning would not be changed.

2. The language of the required contract provision would be changed to make it more readable and to make explicit the idea that the provision only preserves claims and defenses related to the sale financed by the creditor contract. The legal meaning of the contract provision would not be changed.

3. Lenders would be permitted to add to the required contract provision a specified clause which frees them from liability for claims and defenses where a consumer tells them that loan proceeds will be spent at a seller with which they are affiliated, but actually spends the proceeds at a different, unaffiliated, seller.

4. The amendment would add a provision indicating that businesses violate the rule only if the violative actions are engaged in with actual or implied knowledge that they are prohibited by the rule.

5. The minimum size of type in which the required contract provision would have to be printed would be reduced, in order to lessen the amount of space the provision would take up on contract forms.

6. In credit contracts required by law to be in Spanish, a Spanish version of the required contract provision would have to be used.

The staff is presently drafting a statement of basis and purpose and related documents.

Objectives

The underlying objective of the amendment is the same as that of the original rule—to ensure that a purchaser's duty to pay is not separated from sellers' duty to perform as promised when consumer sales are financed by third party creditors or purchase money lenders.

The extension of compliance obligations to creditors is intended to encompass within the rule all parties to the practices covered by the rule. It

should also enhance enforcement of the rule because in many transactions covered by the rule creditors play an important or even dominant role in determining the content of contracts. The technical changes made in the rule by the amendment should make the rule easier for consumers and businesses to work with and understand.

Legal Authority

Federal Trade Commission Act sections 5 and 18, 15 U.S.C. 45 and 57(a).

Timing

Final Commission Action—July 1981.

Responsible Person

David Williams, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1100.

USED MOTOR VEHICLES

(41 FR 1089, January 6, 1976)

Regulatory Flexibility

The Rule

The rule would require dealers to post a window form on used cars sold to consumers which discloses, in plain language, information concerning warranty coverage offered (if any), the meaning of an "As Is" sale (in which no express warranties are offered and buyers lose the additional protection of implied warranties created by state law), and other important information. The form would also inform consumers that oral promises are difficult to enforce and would provide space for the dealer to disclose certain specific mechanical condition defects known to him.

The rule would not require dealers to offer any warranties on used cars sold, but it would require dealers who choose to offer written waranties to disclose the basic scope and terms of the warranty coverage provided. Dealers would not be required to inspect vehicles under the rule, but dealers who are aware of certain specific defects in the car at the time of sale would be required to disclose their existence.

The Commission approved the rule in substance on April 14, 1981. The staff was directed to narrow the list of specific known defects which would be required to be disclosed and to conduct consumer testing on the comprehensibility of the window form. The staff will then submit a revised rule and accompanying Statement of Basis and Purpose to the Commission for promulgation.

Objectives

The rule is designed to define and prevent deceptive and unfair practices in the sale of used cars by dealers that may result in substantial consumer injury. These deceptive and unfair practices include oral misrepresentations by dealers about warranty coverage (e.g., misrepresentation that a warranty is offered or of the terms of a warranty, failures to disclose the meaning of warranties and warranty disclaimers prior to sale) and oral misrepresentations about the mechanical condition of used cars (e.g., false claims about condition, failures to disclose known defects, claims about condition made without a reasonable basis).

Legal Authority

Federal Trade Commission Act, Sections 5 and 18, 15 U.S.C. 45 and 57(a).

Magnuson-Moss Warranty Act, Section 109(b), 15 U.S.C. 2309(b).

Timing

Final Commission Action—June, 1981.

Responsible Person

Susan Liss, Division of Product Reliability, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 523–1670.

FUNERAL INDUSTRY PRACTICES

(40 FR 39901, August 29, 1975)

Regulatory Flexibility

In 1979 the Commission tentatively approved in substance a trade regulation rule to govern funeral industry practices. The proposed rule is substantially modified from the rule originally proposed in 1975. The Federal Trade Commission Improvements Act of 1980, Pub. L. 96–252, placed certain limits upon the Commission's authority to regulate the funeral industry. According to Section 19 of the Act, the Commission may issue the funeral rule only to the extent that the rule manadates disclosure of fees or prices and prohibits or prevents: (1) misrepresentations, (2) use of threats or boycotts, (3) conditioning the furnishing of any funeral goods or services to consumers upon the purchase by those consumers of other funeral goods or services, and (4) furnishing funeral goods or services for a fee without prior approval. The Act also requires that any revised rule limited in accordance with Section 19 be published for public comment before the Commission makes a final determination on whether or not to adopt the rule.

On January 22, 1981, the Commission published a revised verson of the 1979 proposed rule (the "January 22 rule"). The proposed January 22 rule has the following features:

1. Price disclosures—The rule would require that consumers be provided with itemized price lists (a general price list, casket price, and other burial container price list) in the funeral home before entering into discussions about particular services or merchandise. It would also require that itemized price information be provided over the telephone upon request. Consumers also would have to be given a written statement listing charges for the services and merchandise they selected.

2. Misrepresentations—It would be a violation of the rule to misstate legal or cemetery requirements. Misrepresentations that funeral services or merchandise can preserve the body for extended periods of time would also be prohibited. Other misrepresentations banned by the rule would be claims that a casket is required for cremations and claims that cash advance items (items obtained from a third party) were being provided at cost when they were not. The rule would also require funeral providers to make certain disclosures to inform consumers whether goods and services such as embalming are required or not.

3. Unfair or Deceptive Practices—The rule as proposed would prohibit embalming without explicit prior permission from family members in ordinary circumstances, would prohibit persons covered by the rule from requiring caskets for cremation, and would require that they make alternative containers available.

4. Market Restraints—Use of group boycotts or threats to restrain competition within the funeral industry (such as competition by advertising prices or by providing alternative funeral arrangements) would be provided.

The Commission invited comment on the January 22 rule for a period of sixty days, ending March 23, 1981, to be followed by a twenty-day rebuttal comment period ending on April 13, 1981. An oral presentation on the January 22 rule was scheduled to be held on May 13, 1981.

During the initial comment period, two interested parties to the rulemaking proceeding submitted a modified version of the proposed funeral rule to the Commission (the "rule proposal"). Prior to the rule proposal being submitted, the Commission's Bureau of Consumer Protection expressed its view that the rule proposal, taken as a whole,

addresses the primary abuses indentified in the funeral rulemaking record and meets the objectives of the funeral rule proceeding. This view was based upon a review of the information on the rulemaking record at the time (*i.e.*, excluding comments submitted in response to the Commission's January 22, 1981 **Federal Register** notice). However, the Bureau of Consumer Portection stated that it would take into account comments submitted on all issues, including comments submitted on the rule proposal, before making the Bureau's final recommendations to the Commission.

On April 14, 1981 the Commission published a notice in the **Federal Register** extending the rebuttal comment period on the January 22 rule from April 13, 1981 to May 13, 1981. The extension was provided to give interested parties an opportunity carefully to review the rule proposal. However, the extended time period applied to rebuttal of all comments submitted to the Commission regarding the January 22 rule. Because the rebuttal comment period was extended, the Commission also rescheduled the date of the oral presentation on the funeral rule for June 17, 1981.

Objectives

The proposed funeral rule is intended to reduce the substantial injury to funeral purchasers resulting from inadequate access to price and other information needed in shopping for and purchasing those items which they believe best meet their individual needs, at the best price available. The project is also intended to reduce the extent to which providers may interfere with rational consumer choice by (1) misrepresenting the utility of and need for certain goods and services, (2) providing and then billing for services without asking for or receiving permission to provide them and (3) requiring consumers to purchase certain goods they neither want nor need. Finally, the rule attempts to reduce the extent to which providers, through group threats or boycotts, unlawfully interfere with the businesses of other providers who advertise or offer low cost or alternative forms of dispositions.

Legal Authority

Federal Trade Commission Act Sections 5 and 18, 15 U.S.C. 45 and 57(a), as limited by the Federal Trade Commission Improvements Act of 1980, Pub. L. 96-252, 94 Stat. 374, Section 19.

Timing

Rebuttal period ends—May 13, 1981.

Oral presentation before the Commission—June 17, 1981.

Commission consideration—July, 1981.

Responsible Person

Robert A.M Schick, Division of Professional Services, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3885.

AMENDMENT TO CARE LABELING OF TEXTILE WEARING APPAREL RULE

16 CFR Part 423 (41 FR 3747, January 26, 1976)

Regulatory Flexibility

The Proposed Amendment

An existing rule, effective since July, 1972, requires that all consumers' wearing apparel and piece goods used to make wearing apparel contain a "Care Label" which informs consumers about proper procedures for such things as cleaning, drying, and ironing.

The amendments that were proposed would extend the rule to cover all textile products including carpets and rugs, upholstered furniture, yarns and linens. The amendments would also require a more complete statement of the care procedure, the use of standardized care terminology and the establishment of a basis of accuracy for each care procedure prescribed in a label.

The proposed amendments were approved in substance by the Commission on December 17, 1980. On January 5, 1981, the Commission published in the **Federal Register** a notice soliciting technical comment on the language of the rule, to determine whether its provisions adequately and clearly convey the Commission's intentions. The staff is presently summarizing the comments received and preparing a statement of basis and purpose and related documents for final Commission review.

Objective

The rule and its amendment seek to inform consumers what care procedures should be used to make certain that the utility and appearance of purchased textile products will not be impaired. In addition, the information thus made available would permit an informed choice among competing products.

Legal Authority

Federal Trade Commission Act sections 5 and 18, 15 U.S.C. 45 and 57(a).

Timing

Final Commission Action—June, 1981.

Responsible Person

Earl Johnson, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 724-1362.

PROPRIETARY VOCATIONAL AND HOME STUDY SCHOOLS

((39 FR 39385, August 15, 1974); Final Rule published (43 FR 60796, December 28, 1978); set aside and remanded by Court of Appeals in *Katharine Gibbs (School), Inc.* v. *FTC*, 612 F.2d. 658 (2d Cir. 1979))

Regulatory Flexibility

The Rule

The rule as originally issued required Proprietary Vocational and Home Study Schools to provide pro rata refunds to students who withdraw from their courses; to provide information to prospective students concerning the schools' graduation and placement records and to provide an initial fourteen day cooling-off period in which students can cancel their enrollment contracts and receive full refunds. The Court of Appeals expressed disagreement with the breadth of the pro rata refund requirement and the manner in which the rule required disclosure of placement and earnings information. The Court also found the rule to be procedurally deficient for not specifying the unfair or deceptive trade practices the rule seeks to prevent.

The Commisssion is presently considering staff's recommendations for revising the rule.

Objectives

The rule's objectives are to create economic incentives for schools to avoid abusive sales practices, to prevent deception by requiring schools to provide material information to prospective students, and to provide students with contractual remedies which they can use to protect themselves when necessary.

Legal Authority

Federal Trade Commission Act sections 5 and 18, 15 U.S.C. 45 and 57(a).

Timing

Republish rule, revised to respond to Court of Appeals order of remand—June, 1981.

Public comment—After publication of proposed revised rule.

Final Commission Action—November, 1981.

Responsible Person

Walter Gross, Division of Marketing Abuses, Bureau of Consumer Protection,

Federal Trade Commission, Washington, D.C. 20580 (202) 523–3911.

HEARING AIDS

(40 FR 26646, June 24, 1975)

Regulatory Flexibility

The Proposed Rule

The proposed regulation currently under consideration would afford hearing aid purchasers a right to cancel the transaction within 30 days of purchase subject only to reasonable service charges. In addition, the proposal would prohibit advertising claims that a hearing aid will halt or retard hearing loss or that it will restore normal hearing.

The staff is analyzing the rulemaking record for further consideration by the Commission.

Objectives

The purpose of this proposal is to prevent deceptive and unfair sales practices in the sale of hearing aids and to give consumers contractual remedies against the risk that the device will provide no significant benefit to the user.

Legal Authority

Federal Trade Commission Act, sections 5, 12, 15 and 18, 15 U.S.C. 45, 55 and 57(a).

Timing

Commission Consideration of Staff Analysis—September, 1981.

Responsible Person

W. Benjamin Fisherow, Division of Food and Drug Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 724–1511.

PROTEIN SUPPLEMENTS

(40 FR 41144, September 5, 1975)

Regulatory Flexibility

The Proposed Rule

The proposed rule addresses the advertising and labeling of protein supplements in three ways. First, there are provisions designed to inform consumers of certain health hazards. Thus, for example, a labeling disclosure would be a required warning against use for infants. Second, the rule would prohibit certain false or deceptive claims, such as the claim that use of a protein supplement can counteract or delay the signs of aging. Third, the rule as presently proposed would require a general disclosure in the advertising and labeling of these products to the effect that most Americans receive all the protein they need from the food they eat. Public comments on the staff and presiding officer's reports are now being analyzed by the staff.

Objectives

The proposed rule was developed to limit misrepresentations in advertising and labeling and to provide information that some of these products may be inappropriate or hazardous for certain uses (e.g., for infants). The rule was also proposed to remedy misrepresentations about the need for dietary protein supplements to the typical consumer diet.

Legal Authority

Federal Trade Commission Act Sections 5, 12, and 18, 15 U.S.C. 45, 52 and 57(a).

Timing

Final Staff Recommendations—June, 1981.

Commission Consideration—July, 1981.

Responsible Person

Harrison Sheppard, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, CA 94102 (415) 556–1270.

MOBILE HOME SALES AND SERVICE

(40 FR 28334, May 29, 1975)

Regulatory Flexibility

The Proposed Rule

The staff has recommended a trade regulation rule concerning warranty practices in the mobile home industry. This recommended rule contains substantial modifications and deletions from the originally proposed rule. It would set 30 day time limits within which the warrantor must complete warranty repairs and require manufacturers or their service agents to perform pre-occupancy inspection of the home. It would also require that manufacturers who offered written warranties on mobile homes maintain recordkeeping systems and disseminate a consumer questionnaire to monotor the adequacy of factory and dealer repairs. The recommended rule also would require that manufacturers enter into written service agreements with dealers and others who perform warranty repairs which specify who is responsible for making the repairs. Under the rule, written warranties must include specific time deadlines for service; set up and transportation damage cannot be excluded from coverage; and repairs cannot be contingent on return of the home to the factory or return of a registration card.

Based on a review of the written comments received during the public comment period on the staff report released in August, 1980, there will be a further evaluation of the need for each of the provisions of the recommended rule. The recommended rule seeks to set performance standards for warranty service and service systems, but the appropriate degree of flexibility for each rule provision remains to be resolved. A possible alternative to specific time deadlines for warranty repairs would allow individual manufacturers and dealers to set their own deadlines, so long as they were disclosed in their warranties.

The recommended rule sets out eight issues that must be addressed in the written service agreement between the manufacturer and dealer. If specific service deadlines and related requirements are retained in any final rule that is promulgated, they may obviate the need for the written agreement to include some of the terms that essentially track obligations the recommended rule would impose on manufacturers.

Consideration will also be given to the need for a pre-occupancy inspection by the warrantor or its agent and whether responsibility for set up and transportation damage should rest on the manufacturer.

Finally, the recommended rule requires manufacturers to monotor the effectiveness of factory and dealer warranty repairs by maintaining service records and disseminating consumer questionnaires. An alternative may be to have manufacturers select their own monotoring devices, rather then require the use of a questionnaire.

Objectives

Most mobile home manufacturers offer a one year written warranty to cover defects in the materials and workmanship of the home. This warranty obligates them to repair defects, yet the rulemaking record indicates that many do not do so in an adequate or timely manner. The purpose of the recommended rule is to create incentives for warrantors to fulfill their warranty obligations by providing services or repairs within a reasonable period of time.

Legal Authority

Federal Trade Commission Act, Sections 5 and 18, 15 U.S.C .p 45 and 57(a).

Timing

Final Staff recommendations—September, 1981.

Oral Presentation before Commission—October, 1981.

Commission consideration—October, 1981.

Responsible Person

Arther Levin, Division of Product Reliability, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 523–1670.

CREDIT PRACTICES

(40 FR 16347, April 11, 1975)

Regulatory Flexibility

The Proposed Rule

A staff report was placed on the public record. The staff's recommended rule, which modifies the originally proposed rule, addresses the use in consumer credit transactions of a variety of legal devices which creditors use to collect debts. Remedies now being recommended by the rulemaking staff include the following:

1. Confession of judgment—The debtor signs a form which authorizes the creditor to obtain a court judgment aginst him or her without notice to the debtor or an opportunity to be heard. The rule would prohibit the use of confessions of judgment.

2. Waivers of state property exemptions—The debtor waives the right, granted by state law, to keep certain minimal property if a court judgment is obtained against him or her. The rule would prohibit the use of such waivers.

3. Wage assignments—The debtor authorizes the creditor to seize a portion of his or her wages without first obtaining a court judgment. The rule would prohibit the use of wage assignments unless they are revocable.

4. Blanket security interests in household goods—These security interests give the creditor the right to take all of the debtor's household goods in the event of default. The rule would prohibit the use of security interests in household goods except to secure credit used to finance the purchase of such goods.

5. Cross-collateral security interests—These security interests allow a merchant to take all goods that a consumer has purchased from that merchant over an extended period of time, in the event of the consumer's failure to pay for a single purchase. The rule would prohibit cross-collateral security interests unless collateral is released from the security agreement as the consumer pays for it, in the order it was purchased.

6. Deficiencies—Following the repossession and sale of collateral, the creditor can sue the debtor for deficiency, i.e., the difference between their sale price of the product and the amount the consumer owes. Sales of repossessed collateral at very low prices frequently result in large deficiencies still owing to the creditor. The rule would prohibit collection of deficiencies unless the debtor is credited with the fair market retail value of the collateral.

7. Attorney's fee clauses—These clauses require the debtor to pay the creditor's attorneys fees in the event that legal action to collect a debt becomes necessary. In some instances, attorney's fees assessed under these clauses may be larger than actual court costs or the cost of actual service provided. The rule would prohibit attorney's fees clauses in consumer credit contracts.

8. Late charges—are penalty fees that the creditor assesses when the debtor fails to pay an installment on time. Sometimes these charges are "pyramided", i.e., a creditor allocates payments in such a way that a single late or missed payment may result in the debtor being assessed a late fee on all subsequent installments. The rule would prohibit pyramiding of late charges.

9. Third party contacts—The record indicates that some creditors make contacts for debt collection purposes with third parties, such as relatives, neighbors, or the debtor's employer. Such contacts may tend to invade privacy and may harm a debtor's employment relationship and lead to job loss. The rule would require creditors to agree in credit contracts not to engage in third party contacts except to locate debtors or to verify debtor assets.

10. Cosigners—Creditors sometimes have the debtor obtain one or more cosigners who agree to pay the debt if the principal debtor defaults. The evidence shows that cosigners frequently do not understand that the obligation they undertake is substantial. The rule would require creditors to give cosigners a notice informing them of their obligation, along with copies of documents relating to the debt. Creditors would lso have to notify cosigners of serious delinquency on the part of the principal debtor and to make serious efforts to collect from the principal before collecting from a cosigner. When a person is solicited to be a cosigner after an account is in default, the potential cosigner would have to be given a 3-day cooling off period to evaluate his or her obligation.

A variety of alternatives to the staff's recommended rule are under consideration. These include: substituting a "loser pays" approach to attorney's fees clauses in place of the proposed ban on such clauses; limiting the proposed prohibition against third party contacts to contacts with employers; eliminating proposed protections for cosigners which go beyond disclosure of the obligations they are undertaking; elimination of the proposed cross-collateralization provision from the rule; and modification of the deficiency balances section of the rule to permit creditors to calculate deficiencies based on either the wholesale or retail value of the collateral, as determined by an actual sale.

The Commission will consider all of these alternatives, as well as others suggested by participants in the proceeding, and will decide what form of rule, if any, it should ultimately promulgate.

Objectives

When debtors default, they become subject to a variety of legal remedies that creditors use to collect money. Many creditor remedies are appropriate collection devices. Certain others, however, may inflict substantial injury on debtors which is disproportionate to the economic value of the remedy. The proposed rule would restrict some of these remedies in cases where their use causes serious harm to debtors which is substantially greater than the resulting economic benefit to creditors from the availability of the collection remedy.

Legal Authority

Federal Trade Commission Act sections 5 & 18, 15 U.S.C. 45 & 57(a).

Timing

Final staff recommendations to Commission—June, 1981.

Oral presentation to Commission—July, 1981.

Commission Consideration—September, 1981.

Responsible Person

David Williams, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 724–1100.

ANTACID ADVERTISING

(41 FR 13534–25, Apr. 6, 1976)

The Proposal

The Commission did not propose a rule at the outset of this proceeding. Rather than making a specific proposal, the Commission focused the proceeding on whether, and in what form, warnings required by the Food and Drug Administration ("FDA") in the labeling of non-prescription antacids should also

appear in the advertising for such products. The proceeding has explored and considered various alternatives, including no warnings whatsoever, a general warning (which refers generally to the existence of risk and directs consumers to the label), various specific warnings (which specifically disclose the existence of particular risks), and various combinations of general and specific warnings. A decision by the staff on the final form of a recommended rule has not yet been made.

Objectives

Any rule in this area would be designed to prevent deceptive advertising claims for over-the-counter antacid products. In particular, a rule would be aimed at preventing the deceptive implication that antacid products are safe and can be taken by anyone without any adverse effects.

Legal Authority

Federal Trade Commission Act, sections 5, 12, 15 & 18, 15 U.S.C. 45, 52, 55 & 57(a).

Timing

Publication of Staff Report—May, 1981.

Public Comment—After release of the Staff Report.

Final Staff Recommendations to Commission—September, 1981.

Oral Presentations to Commission—December, 1981.

Commission Consideration—January, 1982.

Responsible Person

Joel Brewer, Division of Food and Drug Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 724–1530.

HEALTH SPAS

(40 FR 34615; (August 18, 1975))

Regulatory Flexibility

The Proposed Rule

The proposed rule would require that health spa membership contracts include provisions which would grant consumers the right to cancel and receive a full refund without penalty, during a three-day cooling-off period. If the contract is with a seller whose facilities are not yet fully operational, the proposed rule would provide that the consumer's right of cancellation may be exercised within ten days after receipt of notice that the spa facilities are fully operational and available. Following the expiration of the cooling-off period, the proposed rule would require that the health spa contract afford the consumer an additional right to cancel at any time prior to the contract's expiration. In this instance, however, the seller would be allowed to retain a cancellation fee not in excess of 5% and pro-rata portion of the contract price based on the period of time the facilities were available to, or used by, the consumer. The balance of the contract price would have to be refunded to the consumer within ten business days after cancellation of the contract.

Other providions of the proposed rule prescribe the manner and form of giving the consumer notice of his cancellation right, prohibit the use of long-term contracts, and prohibit the receipt of more than 5% of the contract price from consumers if a spa is not fully operational and available for use.

The staff is presently completing its analysis of the rulemaking record and its report.

Objectives

The Rule's objectives are to create economic incentives for health spas to avoid unfair or deceptive sales practices and to provide consumers with contractual remedies which they can use to protect themselves when necessary.

Legal Authority

Federal Trade Commission Act, section 5 & 18, 15 U.S.C. 45 & 57(a).

Timing

Publication of Staff Report—June, 1981.

Public Comment on Staff Report—until September, 1981.

Responsible Person

John Crowley, Federal Trade Commission, New York Regional Office, 26 Federal Plaza, New York, New York 10278 (212) 264–1213.

CHILDREN'S ADVERTISING

(43 FR 17967, April 27, 1978)

The Proposed Rule

The Commission did not propose a rule at the onset of this proceeding. Rather than making a specific proposal, the rulemaking was aimed at determining whether television advertising directed to children is unfair or deceptive and, if so, what remedies are appropriate.

The Federal Trade Commission Improvements Act of 1980, Pub. L. 96–252 suspended this proceeding until the Commission votes to publish the text of a proposed rule. Additionally, any further action in the proceeding could be based only on acts or practices which are "deceptive". By order of June 18, 1980, the Commission instructed the staff to analyze the rulemaking record and to prepare recommendations regarding what courses of action might be undertaken by the Commission, including further rulemaking proceedings or alternatives to such proceedings. The original deadline of October 15, 1980 was extended to February 20, 1981 when the staff's status report was placed on the public record. The staff concluded that discussions with regard to voluntary rulemaking had not been successful and set March 31, 1981 as the date for staff's recommendation with regard to the rulemaking proceeding. The staff's Report and Recommendation, which was placed on the public record on April 2, 1981, recommended that the Commission terminate the children's advertising rulemaking proceeding. The Commission, by **Federal Register** notice of April 7, 1981, has requested public comment on the proposal to terminate.

Objectives

The objective of this rulemaking is to examine whether measures are necessary to reduce any potential deception that may arise when children are too young to understand child-oriented television advertising. It is also intended to examine ways of reducing any deception that may arise when television advertising of sugared products directed to older children omits to inform them of the health consequences of sugar consumption.

Legal Authority

Federal Trade Commission Act sections 5 and 18, 15 U.S.C. 45 and 57(a). Federal Trade Commission Improvements Act, Pub. L. 96–252, 94 Stat. 378, § 11.

Timing

The 60 day public comment period on staff's recommendation to terminate the proceedings ends on June 8, 1981.

Commission decision as to appropriate action—August, 1981.

Responsible Person

Judith P. Wilkenfeld, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 724–1456.

STANDARDS AND CERTIFICATION

(43 FR 57269 Dec. 7, 1978)

Regulatory Flexibility

The rule that was proposed in 1978 would require standards developers to provide notice of their standards-setting proceedings to representatives of all interests that are likely to be affected

and to assure all interested persons fair opportunity to participate in the proceeding. Further, it would require the establishment of challenge and appeal mechanisms to resolve complaints about deceptive or unduly restrictive standards. Certifiers covered by it would be responsible for the truthfulness of their certifications, and would be obligated to take action to stop misuse of their seals of approval by producers.

This rulemaking is affected by the Federal Trade Commission Improvements Act of 1980, Public Law 96-252. More specifically, the Commission's authority to issue the standards and certification rule with respect to "unfair or deceptive acts or practices" under section 18 of the FTC Act has been removed. The 1980 Act leaves unaffected whatever authority the FTC might have under any other provision of the Act to issue a rule with respect to "unfair methods of competition." The Commission has determined that the most efficient way to decide what Commission action, if any, is necessary in this area is to complete the analysis of the rulemaking record gathered to date.

In addition to an FTC rule addressed to unfair methods of competition, there are a variety of possible Commission actions under consideration. Industry guides or statements of enforcement policy could be issued and these could be enforced on a case-by-case basis. Also under review are other government activities which affect the area to determine whether their impact on competitive and consumer problems would reduce the need for FTC action. One such activity is implementation of OMB Circular A-119, Federal Participation in the Development and Use of Voluntary Standards.

Objectives

Activity in this area is intended to reduce the incidence and severity of injuries to competition that may result from private standards development and product certification activities. Some 20,000 product standards are set by trade associations, technical and professional societies, product testing laboratories, and other private sector groups. They are relied on by consumers, building code officials, Federal and State agencies, and others for regulatory and procurement purposes. Generally, these standards provide significant benefits, such as lowering the cost of communications between buyers and sellers; improving the transfer of technology; encouraging efficiencies in design, production, and inventory; and assuring such things as the safety, fitness, and energy efficiency of products. However, substantial injury to competitors can occur if standards development or certification activities block the use of superior or lower cost technology, prevent businesses from competing in profitable industries, establish inadequate or inappropriate product safety levels, inflate product prices, or deceive consumers about the quality of products.

Legal Authority

Federal Trade Commission Act, sections 5 and 6(g), 15 U.S.C. 45 and 46(g); Federal Trade Commission Improvements Act, Pub. L. 96-252, 94 Stat. 374, § 7.

Timing

Staff Report—July 15, 1981.

Presiding Officer's Report—September 15, 1981.

Close of Public Comment Period on Presiding Officers Report, Staff Report, and Impact of OMB Circular A-119—November 15, 1981.

Close of Rebuttal Period on Impact of OMB Circular A-119—December 15, 1981.

Commission Consideration—April, 1982.

Responsible Person

Robert J. Schroeder, Division of Product Reliability, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3936.

AMENDMENT TO EYEGLASSES RULE AND EYEGLASSES II

(16 CFR Part 456)

Regulatory Flexibility

The Proposal

The staff has written a report recommending proposed amendments to the eyeglasses Rule (16 CFR Part 456) concerning release of eyeglass and contact lens prescriptions following the dispensing of the goods, and new trade regulation rule provisions which would remove state-imposed restrictions on (1) lay or corporate employment of optometrists and opticians, (2) locations of practice, (3) branch officers and (4) use of trade names. The Commission has made no determination on the findings and recommendations of the staff; hence, no formal rulemaking has been initiated.

The Commission has issued an Advance Notice of Proposed Rulemaking (ANPR) (45 FR 79823-831, Dec. 2, 1980) requesting public comment on the staff's analysis and recommendations and on alternative courses of action which the Commission might take. Based upon the comments and staff recommendations, the Commission will decide what action is appropriate.

In addition to the staff recommendations, the Commission is considering alternative courses of action. One of the alternatives is a publication of a Commission report along with a model State law for review by the States. Such a model statute might, for example, permit optometrists and opticians to practice in commercial settings but at the same time ensure protection of quality of care by including minimum standards for eyes examinations and equipment and the protection of the doctor-patient relationship.

Another alternative would be the issuance of a voluntary guide, including some or all of the provisions recommended by the Commission's staff for a rulemaking. A guide could define, for example, the kinds of private restrictions on commercial practice that the Commission believed unjustifiably inhibited competition among eye care providers or consumer access to alternative, low cost eye care goods and services. Such guides could be followed up by case enforcement.

Objectives

The objective of the Commission's investigation is to reduce public and private restraints which increase consumer prices and limit accessibility to vision care but which do not appear necessary to protect the public health and safety. The principal question the Commission is exploring is the impact of the restrictions noted above on the price, quality and availability of vision care. The investigation has sought, through the development of statistically valid market research, to determine whether higher prices result from these restrictions and, if so, whether offsetting consumer benefits also result for these restrictions.

Legal Authority

Federal Trade Commission Act, Sections 5 and 18, 15 U.S.C. 45 and 57(a).

Timing

Commission decision on appropriate action—May, 1981.

Responsible Person

Christine Latsey, Division of Professional Services, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3426.

RESIDENTIAL REAL ESTATE BROKERAGE PRACTICES

Regulatory Flexibility

The Proposal

The staff has completed its investigative work in a nationwide investigation of the residential real estate brokerage industry. As yet, neither the staff nor the Commission has reached any conclusions on any appropriate action. However, several alternatives are under consideration. These include: (1) a public report designed to aid industry, state regulators and brokers in dealing with industry performance problems; (2) a trade regulation rule which would declare certain brokerage acts or practices "unfair or deceptive" and thus unlawful under Section 5 of the FTC Act; (3) efforts to educate the home buying and selling public, including attempts to increase consumer understanding of the brokerage transaction and to facilitate consumer efforts; (4) formal administrative complaints, alleging anticompetitive, unfair, or deceptive practices, against groups or individuals in the industry; and (5) no action.

Any of these alternatives for action might be used to encourage a number of substantive changes which may enhance competition among brokers and improve the flow of information to consumers. Among the many possible changes the staff is considering are those that would encourage (1) elimination of practices that may discourage brokers from offering differing prices and differing packages of services; (2) easing restrictions on the use of brokers of multiple listing services; (3) clarification of existing legal duties between brokers, and between brokers and consumers; and (4) facilitating informed consumer choice through requirements that brokers make brief information disclosures to consumers.

Objectives

Complaints and comments from brokers, consumer groups, and legal and economic experts have raised questions about how the competitive process is working (especially in light of the commonplace 6 or 7 percent commission rates) and how the consumer is served (including problems of possible conflicts of interest and consumer under-representation) in the brokerage transaction.

In considering the various policy alternatives, the staff is seeking to insure that the marketplace will be allowed to provide the choices that consumers want. The staff is giving primary consideration to actions that may enhance price and service competition among brokers by lessening private restraints on competitors, and that will improve the flow of accurate information to consumers, so that they can make more informed choices among brokers.

Legal Authority

Federal Trade Commission Act, Sections 5, 6, and 18, 15 U.S.C. 45, 46 and 57(a).

Timing

The timetable for any FTC decision will depend on the nature of the action selected. Commission decision as to an appropriate course of action—July, 1981.

Responsible Person

Robert Enders, Regional Director, Paul Roark, Attorney, Federal Trade Commission, Los Angeles Regional Office, 11000 Wilshire Blvd., Suite 13209, Los Angeles CA 90024 (213) 824-7575.

AMENDMENT TO LABELING AND ADVERTISING OF HOME INSULATION RULE

(16 CFR Part 460 (42 FR 59678, 1977))

The Amendment

The Commission's home insulation trade regulation rule became effective on September 29, 1980. The rule requires manufacturers of insulation products sold for residential use to test their products to determine insulating ability ("R-value"), and to disclose R-values and related information on product labels and on fact sheets to be made available to consumers by retailers and installers. It requires disclosure of R-values and related information by insulation installers and new home sellers. It requires advertisers to have a reasonable basis for energy savings claims they make about specific insulation products, and to disclose specific additional information in advertisements or other promotional materials when they make energy savings claims about an insulation product or refer to the product's thickness, R-value or price.

The Commission will reopen the rulemaking proceeding to consider whether it should amend the rule's disclosure requirements insofar as they apply to television advertising. The Commission has temporarily delayed the effective date of those disclosure requirements pending the initiation and completion of these amendment proceedings.

The Commission may lift the temporary stay of the requirement to test insulation at its representative thickness, after the National Bureau of Standards has made thick calibrated samples available.

Objectives

These amendment proceedings are in response to an earlier court order and changes in test technology. After the Commission promulgated the rule on August 31, 1979, an appeal was filed in the United States Court of Appeals for the Tenth Circuit. The Commission and the petitioners agreed to ask the Tenth Circuit to remand the rule to the Commission. On January 4, 1980, the Court approved the joint stipulation and remanded the rule to the Commission for further rulemaking proceedings concerning thick sample testing and television advertising disclosures.

In addition, the rule by necessity incorporates test procedures for determining insulation quality. The National Bureau of Standards is expected to develop procedures for accurately testing thick samples, after which the appropriate requirement can be developed.

Legal Authority

Federal Trade Commission Act, Sections 5 and 18, 15 U.S.C. 45 and 57(a).

Timing

Advance notice of proposed rulemaking—May, 1981.

Notice of proposed rulemaking—August, 1981.

Responsible Person

Kent Howerton, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 724-1524.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-13867 Filed 5-6-81; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[File No. 801 0091]

YKK (U.S.A.) 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, a New Jersey-based

firm engaged in the manufacture and sale of finished zippers, zipper chain and sliders to cease discriminating in price between different customers on the same functional level, purchasing products of like grade and quality, through the use of discriminatory prices and rebates.

DATE: Comments must be received on or before July 6, 1981.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW, 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 § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), 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)).

In the Matter of YKK (U.S.A.) Inc., a corporation; File No. 801 0091.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of YKK (U.S.A.) Inc., a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that it is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between YKK (U.S.A.) Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent YKK (U.S.A.) Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located 1251 Valley Brook Avenue, Lyndhurst, New Jersey.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the 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 entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, 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 the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. The agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist 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 complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent 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 purposes of this Order the following definitions apply:

1. "Slide Fastener Manufacturer" means an integrated manufacturer who produces finished zippers, zipper chain, and sliders.

2. "Assembler" means a customer who purchases finished zippers, zipper chain, sliders or components such as tops, bottoms, opening parts and wire from various manufacturers and assembles and sells finished zippers.

3. "Jobber" means a customer who (a) purchases finished zippers of various sizes from manufacturers and assemblers for sale to users or (b) purchases zipper chain and sliders for resale without assembly or finishing.

4. "User" means a customer who purchases finished zippers, zipper chain, sliders or components in order to incorporate them in products other than finished zippers that it manufactures.

I

It is ordered that respondent YKK (U.S.A.) Inc. and its officers, representatives, agents, employees, successors, and assigns, directly, indirectly, or through any corporate or other device, in or in connection with the sale of finished zippers of like grade and quality, zipper chain of like grade and quality, or sliders of like grade and quality in or affecting commerce as "commerce" is defined in the amended Clayton Act or Federal Trade Commission Act do forthwith cease and desist from:

Discriminating directly or indirectly in the price of finished zippers of like grade and quality, zipper chain of like grade and quality, or sliders of like grade and quality as between customers on the same functional level where respondent YKK is in competition with any slide fastener manufacturer in the sale of finished zippers, zipper chain, or sliders or with any assembler in the sale of finished zippers. For the purposes of this Order, assemblers, jobbers and users are on different functional levels.

II

It is further ordered that respondent shall forthwith distribute a copy of this Order to each of its operating departments and divisions engaged in the offering for sale, sale, distribution, marketing, or promotion of finished zippers, zipper chain and sliders.

III

It is further ordered that respondent shall notify the Federal Trade Commission at least thirty (30) days prior to my proposed change in its corporate organization that may affect compliance obligations arising out of this Order, including but not limited to dissolution, assignment, or sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries.

IV

It is further ordered that respondent shall within sixty (60) days after service on it of this Order, file with the Federal Trade Commission a report in writing setting forth in detail the manner and form in which it is complying and has complied with this Order.

YKK (U.S.A.) Inc.

[File No. 801 0091]

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from YKK (U.S.A.) 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 comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

YKK is engaged primarily in the manufacture and sale of finished zippers, zipper chain, and sliders. The complaint alleges that YKK has violated Section 5 of the Federal Trade Commission Act and Section 2 of the Clayton Act by discriminating in price between different purchasers of finished zippers of like grade and quality, zipper chain of like grade and quality, and sliders of like grade and quality through the use of discriminatory prices and rebates.

The purpose of the proposed order is to eliminate such practices. Section I requires YKK to cease and desist from discriminating in the price of finished zippers, zipper chain or sliders among customers who compete on the same functional level with each other, if manufacturers or assemblers are competing with YKK for such sales. Section II requires that YKK distribute the order to its sales and marketing departments. Section III provides that YKK will notify the Commission thirty days prior to any organizational change that would affect compliance obligations. Section IV requires that YKK file a report sixty days after being served with the order stating how it is complying with the order.

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

Carol M. Thomas,

Secretary.

[FR Doc. 81-13739 Filed 5-6-81; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility Agenda

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: On September 19, 1980, Congress enacted the Regulatory Flexibility Act, requiring agencies, consistent with their objectives, to fit their regulatory and informational requirements to the scale and resources of small entities (i.e., business, governmental and other organizational entities) subject to their regulation. In its efforts to comply with the provisions of this Act as well as obtain comments from small entities, the CPSC has prepared its first semi-annual regulatory flexibility agenda for rules expected to be proposed or promulgated during the succeeding months (or such longer projected period as may be anticipated).

DATES: (1) Written comments: The Commission welcomes comments from small entities (i.e., businesses, organizations, and governmental jurisdictions) upon each subject area of the proposed agenda. Written comments concerning the proposed agenda must be received in the Office of the Secretary by July 6, 1981.

ADDRESS: Comments on the proposed regulatory flexibility agenda should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, (202) 634-7700, and should be titled "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION CONTACT:

For further information on the proposed regulatory agenda in general, contact: Michele D. Dudley, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, (202) 634-7770.

For further information regarding a particular item on the proposed regulatory agenda, consult the individual listed in the column headed "contact" for that particular item.

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1978, former President Carter issued Executive Order 12044, "Improving Government Regulations". Although the CPSC was excluded from the order's application as an independent regulatory agency, it voluntarily complied with the guidelines of the order by publishing in the **Federal Register** a proposed response (43 FR 32392) as well as a final response (45 FR 28183) to the order. These responses covered the publication of regulatory agendas; agency head oversight; opportunity for public participation; agency head approval of significant regulations; regulatory analysis; regulatory review; and also included a request for comments regarding the Commission's efforts towards regulatory improvement.

Executive Order 12044 was subsequently revoked on February 17, 1981 by President Reagan's Executive Order 12291. This order directed executive agencies to adopt certain procedures to ensure that their present and future regulations are based upon adequate information concerning the need for and consequences of agency regulations (e.g., that potential benefits outweigh potential costs; that chosen, alternative approaches to regulatory objectives involve the least net cost to society; and that the conditions of particular industries affected by regulations as well as the condition of the national economy, be taken into account in setting regulatory priorities). Section 5 of the order requires executive agencies to publish, in October and April of each year, a regulatory agenda of proposed regulations issued or expected to be issued, and further states that such an agenda may be incorporated with the agendas published under the Regulatory Flexibility Act (5 U.S.C. 602). While the Commission, as an independent regulatory agency, is not required to

follow E.O. 12291, the Commission, as with E.O. 12044, plans to comply voluntarily with those guidelines of the order relating to publication of a regulatory agenda.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the Act (5 U.S.C. 602) requires each agency to publish during the months of October and April of each year, a regulatory flexibility agenda containing a brief description of any rule expected to be proposed or promulgated which will likely have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the objectives and legal basis for each agenda item, a schedule for acting on each item, as well as the name and address of the agency official knowledgeable concerning the items listed. Further, agencies are required to provide notice of their agendas to small entities and solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

The CPSC has long made virtually all the information requested or required under the former E.O. 12044, the present E.O. 12291, and the Regulatory Flexibility Act, available to the public in forms other than a semi-annual published agenda. For example, the Commission has published its "major" regulations in the Regulatory Council's Calendar of Federal Regulations, and has also published in the **Federal Register** its annual list of "priority" regulatory projects. Further, the Commission makes available its fiscal year operating plan of regulations to which resources will be devoted, and revises the plan quarterly.

In an effort to comply with the spirit of the Regulatory Flexibility Act, the agenda appearing below lists all of the Commission's anticipated regulatory activities under development or review; a brief description and summary of each regulatory activity (including objectives and legal basis for each); an approximate schedule of target dates (subject to revision) for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda.

Dated: April 30, 1981.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

U.S. Consumer Product Safety Commission Semiannual Regulatory Flexibility Agenda

Anticipated regulatory activities	Legal basis	Brief description and summary	Approximate schedule for development or completion	Contact
Upholstered Furniture Cigarette Flammability Standard.	FFA	A finding of possible need for a flammability standard to decrease injuries and deaths associated with cigarette ignited upholstered furniture fires was published on November 29, 1972 (37 FR 25239). In November, 1979, the Commission voted to defer regulatory action in order to monitor the effectiveness of an industry Upholstered Furniture Action Council voluntary action program that may eliminate the need for a mandatory standard. Staff is analyzing the programs' results.	April–May 1981—Regulatory Options paper	James Hoebel, Office of Program Management, 301-492-6453.
Thermal Underwear Labeling Rule.	FFA	In July, 1980, the Commission voted to grant a petition (FP 79-2) to consider a labeling rule indicating that thermal underwear is not covered by the children's sleepwear flammability standards. The rule would alert consumers that this product is not fire resistant.	June–July 1981—Commission decision on proposed rule.	James Hoebel, Office of Program Management, 301-492-6453.
Coal and Wood Burning Stoves Labeling Requirements.	CPSA	On June 6, 1979 the Commission granted a petition that requested that manufacturers be required to label and provide instructions on the minimum clearance to combustibles and the chimney type required for these stoves. Hazard data shows injuries and deaths associated with these stoves, some of which may be prevented by this rule. On November 17, 1980 (45 FR 76018) labeling requirements were proposed.	June–July 1981—Commission decision on final rule.	James Hoebel, Office of Program Management, 301-492-6453.
Antenna Standard.	CPSA	On April 12, 1979 the Commission decided to proceed on internal development of a safety standard for omnidirectional CB base-station antennas to address the hazard of electrocution and other electrical injuries when putting up or taking down these antennas. Notice of proceeding to develop the standard was issued September 14, 1979 (44 FR 53676).	June, 1981—Commission decision on the proposed standard and certification rule.	Carl Blechschmidt, Office of Program Management, 301-492-6557.
Miniature Christmas Tree Lights.	CPSA	On March 31, 1979 the Commission published a notice of proceeding to develop a safety standard for these lights because injury information shows fire and electrocution hazard associated with them. On May 3, 1978 it proposed a standard (43 FR 19136), and extended to March 15, 1981 (46 FY 13040) the time in which it must either publish a mandatory standard or withdraw the notice of proceeding. Based on information showing that there has been significant upgrading of voluntary standards and a decline in fire incidents from 1977 to 1980, the Commission, on March 20, 1981 proposed to withdraw the proposed standard (46 FR 17788).	September, 1981—Commission Decision on withdrawing proposed standard.	Carl Blechschmidt, Office of Program Management, 301-492-6557.
Chain Saw Standard.	CPSA	Efforts in 1979 and 1980 to develop a voluntary chain saw standard were deemed unsuccessful. Subsequently, the Commission decided that a mandatory standard was needed to reduce kickback and other injuries and that it should be developed by Commission staff. An amended voluntary standard should be submitted to the Commission in the near future.	April, 1981—Notice of proceeding to develop standard.	Carl Blechschmidt, Office of Program Management, 301-492-6557.
Unvented Gas-Fired Space Heater Rule.	CPSA	The Commission published a rule on September 17, 1980 that requires all manufacturers to equip their heaters with oxygen depletion sensors which would shut off the heaters, if the carbon monoxide level became hazardous. An extension of its effective date from June 15, 1981 to December 31, 1981 was proposed on April 2, 1981 (46 FR 20032). In this same notice (page 20030), a stockpiling rule was issued, effective May 4, 1981, to limit the number of heaters which can be produced before the effective date of the rule.	June, 1981—Commission decision on Final Extension date notice.	James Hoebel, Office of Program Management, 301-492-6453.
Mattress Flammability Standard Amendment.	FFA	As part of a statutory review of the mattress standard, the standard may be amended to reduce the sampling and recordkeeping costs to manufacturers, while maintaining the level of protection it affords to consumers.	July, 1981—Commission decision on proposed amendments.	James Hoebel, Office of Program Management, 301-492-6453.
Urea-Formaldehyde Foam Insulation Regulation.	CPSA	Hazard information shows that urea-formaldehyde gas which may cause adverse health effects of an acute and chronic nature. On February 5, 1981 the Commission proposed a ban of urea-formaldehyde foam insulation installed in residences and on March 20, 1981 held a public meeting on this proposal.	July–Nov., 1981—Commission decision on final ban.	Harry Cohn, Office of Program Management, 301-492-6458.

U.S. Consumer Product Safety Commission Semiannual Regulatory Flexibility Agenda—Continued

Anticipated regulatory activities	Legal basis	Brief description and summary	Approximate schedule for development or completion	Contact
Crib Amendment	FHSA	In December, 1978 the Commission directed staff to prepare an amendment to the full size crib regulation after identifying neck and head entrapment hazard associated with certain cutout designs on cribs. The amendment under consideration would apply also to non-full size cribs and would prohibit hazardous configurations by adding to the crib requirements a performance test to simulate the entrapment hazard pattern.	July, 1981—Commission decision on final amendment.	Elaine Besson, Office of Program Management, 301-492-6453.
Strings and Elastics on Infant Toys Regulation.	FHSA	Hazard information identified a serious risk of strangulation presented by some of these products. This regulation will address the generic problems associated with these toys.	October, 1981—Commission decision on alternatives.	Elaine Besson, Office of Program Management, 301-492-6453.
Toy Chests Regulation.	FHSA	Hazard information shows injuries and deaths associated with toy chests. This regulation's requirements and test method are to reduce or prevent the risk of death from strangulation caused by free falling lids.	July, 1981—Commission decision on proposed rule.	Elaine Besson, Office of Program Management, 301-492-6453.
Swimming Pool Slide Standard Revocation.	CPSA	In 1980, the Commission voted to prepare a document which may lead to revocation of this standard, because those parts of it remaining after the U.S. Court of Appeals for the Fifth Circuit set aside certain sections may not address an unreasonable risk of injury and because revocation would eliminate unnecessary requirements for industry to observe.	June, 1981—Commission decision on proposed revocation.	Elaine Besson, Office of Program Management, 301-492-6453.
Benzidine Congener Dyes Ban.	CPSA	Hazard information shows that benzidine congener dyes may present a carcinogenic health hazard. Consumer exposure to the dyes occurs usually from dye products for home dyeing application or those sold as arts and crafts materials. The Commission has granted a petition to propose a ban on consumer dye products containing benzidine congener dyes.	Fall, 1981—Commission decision on proposed rule.	Abbie Gerber, Directorate for Health Sciences, 301-492-6984.
Formaldehyde Regulation.	CPSA	Formaldehyde may cause adverse effects to the respiratory system and the skin and has been determined to be a carcinogen in laboratory animals. Formaldehyde is found in a number of consumer products, including laminated veneers, plywood, insulating materials, particle board, textiles, tissue preservation, leathers, and paper. The Commission has commenced an investigation to determine the extent of the hazard, if any, associated with exposure to formaldehyde from these consumer products.	May, 1981—Notice of commencement of investigation may be issued jointly with EPA.	Sandra Eberle, Directorate for Health Sciences, 301-492-6984.
Asbestos Regulation.	CPSA	Hazard information shows that asbestos presents a risk of cancer and respiratory disease. On October 17, 1979, the Commission issued an advance notice of proposed rulemaking (44 FR 60057) on asbestos in consumer products.	May, 1981—Commission decision on consideration of alternatives on selected asbestos-containing consumer products.	Hugh Spitzer, Directorate for Health Sciences, 301-492-6984.
Dual Purpose Closures Restriction.	PPPA	Commission staff believes that dual purpose closures may increase the potential for ingestions of household substances, including prescription drugs, because many consumers may use dual purpose closures in the non-safety packaging position. A rule could restrict these closures and possibly reduce the potential for accidental poisonings.	By October, 1981—Commission decision on proposed restriction.	Virginia White, Office of Program Management, 301-492-6453.
Sulfuric Acid Drain Cleaners; Proposal to Ban.	PPPA	On December 14, 1978, the Commission granted a petition (HP 78-1) to propose a ban on drain cleaners containing sulfuric acid for household use because data indicates injuries associated with these cleaners. This rule would propose a ban on these drain cleaners for use by consumers.	May, 1981—Commission decision on proposed ban.	Virginia White, Office of Program Management, 301-492-6453.
Unstable Refuse Bins; Partial Revocation.	CPSA	As a result of a petition from a group of trash companies in southern California, the Commission proposed a rule to partially revoke the unstable refuse bins ban as it would apply to certain small size, straight sided bins, since such bins were found not to present a significant risk of causing injury. At the end of the comment period and oral presentation of views scheduled for May 11, 1981, the Commission will consider final action.	Schedule undetermined	Douglas L. Noble, Office of Program Management, 301-492-6557.
Benzene	CPSA	A FEDERAL REGISTER notice of January 13, 1981 (46 FR 3034) announced the Commission's decision to withdraw its May 19, 1978 proposal (43 FR 21838) to ban consumer products, with the exception of gasoline and solvents or reagents for laboratory use, which contain benzene as an intentional ingredient or as a contaminant at a level of 0.1 percent or greater by volume. The decision was based on staff information that shows that benzene is no longer used as an intentional ingredient and that contaminant levels do not constitute a significant risk. The May 19, 1978 proposal was made because of indications that exposure to benzene may cause blood disorders, including leukemia and chromosomal abnormalities.	May, 1981—Commission decision on final withdrawal notice.	Rory Faucett, Directorate for Health Sciences, 301-492-6984.
Potassium Supplements Exemption.	PPPA	The Commission exempted on September 30, 1980 (45 FR 64557) potassium supplement drugs in effervescent tablets containing not more than 50 mEq. of potassium from child resistant packaging requirements. The Commission may propose to amend this exemption by issuing a generic exemption to cover all dosage forms of the drug from this special packaging.	July, 1981—Commission decision on proposed exemption.	Virginia White, Office of Program Management, 301-492-6453.
Physician Drugs Samples Policy Statement.	PPPA	The Commission proposed on March 23, 1978 (43 FR 12029) to require safety packaging on drug samples dispensed by physicians to be consistent with its policy for pharmacists which states they are responsible for placing a drug in child resistent packaging when they are functioning as a repackager.	July, 1981—Commission decision on final policy statement.	Virginia White, Office of Program Management, 301-492-6453.
Lawn Mowers	CPSA	On May 5, 1977 (42 FR 23052) a lawn mower standard was proposed, which contained requirements for blade contact thrown objects, fuel ignition, electrically powered mowers, and riding mowers. On February 15, 1979, the Commission finalized a standard on walk behind power mowers addressing blade contact only. The Commission decided to propose to withdraw the portions of its May 5 proposal relating to thrown objects, fuel ignition, and electrically powered mowers.	May, 1981—Commission decision on proposed withdrawal, June, 1981 Commission decision on riding mowers.	Carl Blechschmidt, Office of Program Management, 301-492-6557.

[FR Doc. 81-13691 Filed 5-6-81; 8:45 am]

BILLING CODE 6355-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 1797-6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Bay Area Air Quality Management District (BAAQMD) and the South Coast Air Quality Management District (SCAQMD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted on or before July 6, 1981.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, State Implementation Plan Section (A-2-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions and EPA's associated evaluation reports are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109
South Coast Air Quality Management District, 9150 Flair Drive, El Monte, CA 91731
California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 556-2938.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on the indicated dates, as revisions to the California SIP.

Bay Area Air Quality Management District

May 7, 1979

1317.9 Definitions
1317.92 Permit to Operate
1317.93 Permit to Operate

May 23, 1979

Regulation 3

3-1221 Exclusion
3-1224 Exclusion
3-3102.1 Submerged Fill Pipes
3-3102.4 Double Seals

April 2, 1980

Regulation 9 Inorganic Gaseous Pollutants Rule 4

9-4-100 GENERAL
9-4-101 Description
9-4-200 DEFINITIONS
9-4-201 Fan Type Central Furnace
9-4-202 Seasonal Efficiency
9-4-203 Useful Heat Delivered to the Heated Space
9-4-300 STANDARDS
9-4-301 Home Central Furnace
9-4-302 Mobile Home Central Furnaces
9-4-303 Certified Furnaces
9-4-400 ADMINISTRATIVE REQUIREMENTS
9-4-401 Certification
9-4-402 Compliance Statement
9-4-403 Identification
9-4-404 Enforcement

June 2, 1980

Regulation 1 General Provisions and Definitions

1-100 GENERAL
1-101 Description
1-102 More Than One Emission Standard
1-103 Violations Not Authorized
1-104 Circumvention Not Permitted
1-105 Regulations Not Intended To Apply To Workroom Atmosphere
1-106 Separation of Emissions
1-107 Combination of Emissions
1-108 Metric Governs
1-109 Severability
1-110 Exclusions
1-111 Exemption, Experimental Operations
1-112 Breakdown
1-113 Discretionary Enforcement Breakdown
1-114 Exemption, Uncombined Water
1-200 DEFINITIONS
1-201 Air Contaminant of Air Pollutant
1-202 Air Pollution Control Equipment
1-203 APCO
1-204 ARB
1-205 Atmosphere
1-206 Bar
1-207 Best Modern Practices
1-208 Breakdown (malfunction)
1-209 Commenced
1-210 Construction
1-211 Discharge
1-212 District
1-213 Emission or Emissions
1-214 Emission Point
1-215 Facility
1-216 Fixed Capital Cost
1-217 Modification
1-218 Opacity
1-219 Operation
1-220 Operating Day
1-221 Person
1-222 Plant
1-223 ppm
1-224 Reconstruction
1-225 Sampling Point
1-226 Sea Level Atmospheric Pressure
1-227 Source
1-228 Standard Conditions
1-229 Standard Dry Cubic Meter
1-230 Type A Emission Point
1-231 Type B Emission Point
1-232 Visible Emissions
1-400 ADMINISTRATIVE REQUIREMENTS
1-401 Violation Notice
1-402 Status of Violation Notices During Variance Proceedings
1-410 Registration
1-411 Permits May Be Needed
1-412 Address For Service
1-420 Emission Source Data
1-430 Breakdown Procedures
1-431 Breakdown Report
1-432 Written Breakdown Report
1-433 Determination of Breakdown
1-434 Administrative Violation, Breakdown
1-440 Right of Access to Premises
1-441 Right of Access to Information
1-500 MONITORING AND RECORDS
1-501 Sampling Facilities
1-502 Sampling at Type B Emission Points
1-510 Area Monitoring
1-520 Emission Monitoring
1-521 Monitoring May Be Required
1-530 Instrument Downtime
1-540 Data Examination
1-541 Emission Excesses
1-543 Record Maintenance for Two Years
1-544 Monthly Summary
1-600 MANUAL OF PROCEDURES
1-601 Approval of Sampling Facilities
1-602 Area and Source Monitoring Requirements
1-603 Visible Emissions
1-604 Opacity Measurements

Regulation 5 Open Burning

5-100 GENERAL
5-101 Description
5-110 Exemptions
5-111 Conditional Exemptions
5-200 DEFINITIONS
5-201 Agricultural Fire
5-202 Fire
5-203 Flue
5-204 Gainful Occupation
5-205 Notification
5-206 Permissive Burn Day
5-207 Treated Brush
5-300 STANDARDS
5-301 Prohibition of Fires
5-400 ADMINISTRATIVE REQUIREMENTS
5-401 Allowable Fires
5-402 Reporting
5-403 Agricultural Land Use
5-404 Emergency Waivers

Regulation 6 Particulate Matter and Visible Emissions

6-100 GENERAL
6-101 Description
6-200 DEFINITIONS
6-201 Exhaust Gas Volume

6-202 Particulate Matter
6-203 Process Weight
6-204 Process Weight Rate
6-300 STANDARDS
6-301 Ringelmann No. 1 Limitation
6-302 Opacity Limitation
6-303 Ringelmann No. 2 Limitation
6-304 Tube Cleaning
6-305 Visible Particles
6-310 Particulate Weight Limitation
6-311 General Operations
6-312 Source Gas Volume
6-320 Sulfuric Acid Manufacturing Plants
6-330 Sulfur Recovery Units
6-400 ADMINISTRATIVE REQUIREMENTS
6-401 Appearance of Emissions
6-500 MONITORING AND RECORDS
6-501 Sampling Facilities and Instruments Required
6-502 Data, Records and Reporting
6-600 MANUAL OF PROCEDURES
6-601 Particulate Matter, Sampling Facilities, Opacity Instruments and Appraisal of Visible Emissions

Regulation 11 Hazardous Pollutants

Rule 1 Lead

11-1-100 GENERAL
11-1-101 Description
11-1-102 Optional Standards
11-1-300 STANDARDS
11-1-301 Daily Limitation
11-1-302 Ground Level Concentration Limit Without Background
11-1-303 Ground Level Concentration Limit With Background
11-1-500 MONITORING AND RECORDING
11-1-501 Monitoring
11-1-600 MANUAL OF PROCEDURES
11-1-601 Determination of Emission Limits
11-1-602 Determination of Background Concentrations
11-1-603 Monitoring Equipment

Regulation 12 Miscellaneous Standards of Performance

Rule 2 Reodering Plants

12-2-100 GENERAL
12-2-101 Description
12-2-200 DEFINITIONS
12-2-201 Reduction
12-2-300 STANDARDS
12-2-301 Processing of Gases
12-2-500 MONITORING AND RECORDS
12-2-501 Monitoring

Rule 3 Asphalt Air Blowing

12-3-100 GENERAL
12-3-101 Description
12-3-300 STANDARDS
12-3-301 Processing of Gases
12-3-500 MONITORING AND RECORDS
12-3-501 Monitoring

Rule 4 Sandblasting

12-4-100 GENERAL
12-4-101 Description
12-4-102 Multiple Nozzles
12-4-200 DEFINITIONS
12-4-201 Abrasives
12-4-202 Abrasive Blasting
12-4-203 Abrasive Blasting Equipment
12-4-204 Confined Blasting
12-4-205 Hydroblasting
12-4-206 Multiple Nozzles
12-4-207 Permanent Abrasive Blasting Operations or Equipment
12-4-208 Sandblasting
12-4-209 Source
12-4-210 Unconfined Blasting
12-4-211 Vacuum Blasting
12-4-212 Wet Abrasive Blasting
12-4-300 STANDARDS
12-4-301 Ringelmann 1 Limitation
12-4-302 Ringelmann 2 Limitation
12-4-303 Performance Standards For Abrasive Blasting For Traffic Markers
12-4-304 Performance Standards For Other Abrasive Blasting
12-4-305 Performance Standards For Abrasives
12-4-306 Certification of Abrasives
12-4-307 Abrasive Labeling By Supplier

July 10, 1980

Regulation 9 Inorganic Gaseous Pollutants

Rule 1 Sulfur Dioxide

9-1-100 GENERAL
9-1-101 Description
9-1-110 Conditional Exemption, Area Monitoring
9-1-200 DEFINITIONS
9-1-201 Controlled Sulfur Recovery Plant
9-1-202 Uncontrolled Sulfur Recovery Plant
9-1-203 New Sulfur Recovery Plant or Sulfuric Acid Plant
9-1-204 Start Up
9-1-300 STANDARDS
9-1-301 Limitations on Ground Level Concentrations
9-1-302 General Emission Limitation
9-1-303 Emissions from Ships
9-1-304 Fuel Burning (Liquid and Solids Fuels)
9-1-305 Emission Limitations for Controlled Sulfur Recovery Plants
9-1-306 Emission Limitations for Uncontrolled Sulfur Recovery Plants
9-1-307 Emission Limitations for New Sulfur Recovery Plants
9-1-308 Emission Limitations for Sulfuric Acid Plants
9-1-309 Emission Limitations for New Sulfuric Acid Plants
9-1-310 Emission Limitations for Fluid Catalytic Cracking Units, Fluid Cokers, and Coke Calcining Kilns
9-1-311 Emission Limitations for Catalyst Manufacturing Plants
9-1-400 ADMINISTRATIVE REQUIREMENTS
9-1-401 Schedule for January 1, 1984 Compliance Date
9-1-402 Schedule for January 1, 1989 Final Compliance Date
9-1-403 Schedule for August 1, 1981 Final Compliance Date
9-1-404 Schedule for July 1, 1987 Final Compliance Date
9-1-500 MONITORING AND RECORDS
9-1-501 Area Monitoring Requirements
9-1-502 Emission Monitoring Requirements
9-1-600 MANUAL OF PROCEDURES
9-1-601 Sampling and Analysis of Gas Streams
9-1-602 Sulfur Content of Fuels
9-1-603 Averaging Times
9-1-604 Ground Level Monitoring
9-1-605 Emission Monitoring

July 25, 1980

Regulation 3 Fees

3-100 GENERAL
3-101 Description
3-102 Exemption, Public Agencies
3-103 Exemption, Abatement Equipment
3-200 DEFINITIONS
3-201 Cancelled Application
3-202 Change of Location
3-203 Filing Fee
3-204 Initial Fee
3-205 Internal Offset
3-206 Modification
3-208 Resubmitted Application
3-209 Small Business
3-210 Solvent Evaporating Source
3-211 Source
3-300 STANDARDS
3-301 Hearing Board Fees
3-302 Fees for New & Modified Sources
3-303 Retroactive Permits
3-304 Replacement
3-305 Cancellation or Withdrawal
3-306 Change in Conditions
3-307 Change of Ownership
3-308 Change of Location
3-309 Duplicate Permits
3-310 Late Fee
3-311 Banking
3-400 ADMINISTRATIVE REQUIREMENTS
3-401 Permits
3-402 Single Anniversary Date
3-403 Change in Operating Parameters
3-404 Exemptions
3-405 Fees Not Paid
3-406 Anniversary Date
3-407 Fees to be Paid before A/C is Issued
3-408 Permit to Operate Valid for 12 months

South Coast Air Quality Management District

August 15, 1980

1101 Secondary Lead Smelters/Sulfur Oxides

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted as revisions to the SIP. All the rules listed above have been evaluated and determined to be in accordance with the Clean Air Act, 40, CFR Part 51 and EPA policy, with certain exceptions. Therefore, it is the purpose of this notice to propose to approve all the rule revisions listed above and to incorporate them into the California SIP, except as discussed below.

Bay Area AQMD

Rules 1-112, *Breakdown*, and 1-113, *Discretionary Enforcement Breakdown*, allow excess emissions resulting from the breakdown of air pollution abatement equipment or operating equipment to be exempted from the District's rules. The new rules specify that the District may exempt such emissions only if they do not interfere with the attainment and maintenance of the national ambient air quality standards (NAAQS). The new rules are inconsistent with EPA policy as discussed in 42 FR 21472 (April 27, 1977) because they provide an exemption rather than enforcement discretion.

Therefore, both rules are proposed to be disapproved.

New Rule 1–520, *Emission Monitoring*, requires only the installation of monitors whereas the currently approved rule requires the installation, operation, and maintenance of the monitoring equipment. The new rule is approved since it partially meets the requirements of 40 CFR 51.19. However, the analogous Rule 2: 3210.5(B) submitted on October 13, 1977, is retained as applicable to the BAAQMD since it is not entirely replaced by the new rule.

No action is proposed to be taken on Rules 1–600 through 1–604, 6–600 and 6–601, 9–1–600 through 9–1–605, and 11–1–600 through 11–1–603, all entitled *Manual of Procedures*, pending submission of the Manual of Procedures which these rules reference.

Rule 6–305, *Visible Particles*, is not appropriate for inclusion in the SIP because it concerns "nuisance" provisions, which are not specifically directed at the attainment and maintenance of the NAAQS. Therefore, no action is proposed to be taken on this rule.

New Rule 6–310.1, *Incineration or Salvage Operations*, replaces Rules 2:4112.1 and 4112.2 which have different limits for operations over 100 tons burned and under 100 tons burned. The new rule's allowable emissions are applicable only to sources burning more than 100 tons of waste per day. Rule 6–310.1 is proposed to be disapproved pending submission of a control strategy demonstration that this revision will not interfere with the attainment and maintenance of the NAAQS. Rules 2:4112.1 and 4112.2 are proposed to remain in effect.

Rules 9–1–300 through 9–1–303, *Sulfur Dioxide Standards*, exempt from District rules ships emitting sulfur dioxide which results in ground level concentrations in excess of any California or federal ambient air quality standards. The rules, however, are less stringent than the currently applicable SIP rules and inconsistent with 40 CFR 51.12 and 51.22 since they would allow an exceedance of the NAAQS. Therefore, the rules are proposed to be disapproved and the previously approved Regulation 2, Division 3–3121 and 3122 and Division 6–6110 is proposed to remain in effect.

No action is proposed to be taken on Rule 9–1–309, *Emission Limitations for New Sulfuric Acid Plants*, since it concerns new source performance standards under Section 112 of the Clean Air Act and is not appropriate for inclusion in the SIP under Section 110.

Rules 11–1–500 and 11–1–501, *Monitoring and Records*, do not specify requirements for monitoring and records, and are too general to be properly enforced. The new rules thus decrease the stringency of the SIP and are inconsistent with 40 CFR 51.22 and 51.87, and therefore, are proposed to be disapproved. The previously approved requirements of Regulation 2, Division 12:12111.2 through 12111.7 and 12112 are proposed to remain in effect.

The Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been met. The Regional Administrator herely issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before 60 days after publication of this notice will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. The miscellaneous SIP approvals announced today are not Major because they only approve state actions. They impose no new regulatory requirements. The disapprovals are also not Major because they preserve the status quo. Sources will remain subject to existing requirements that were previously approved by EPA. In addition, each of these disapprovals involves only a minor change to the SIP which is not expected to have a major economic effect.

Pursuant to the provisions of 5 U.S.C. § 605(b), the Administrator has certified that this proposed rule, if promulgated, will not have a significant economic effect on a substantial number of small entities. A copy of this certification in available is the rulemaking docket.

(Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a))

Dated: February 20, 1981.

Frank M. Covington,

Acting Regional Administrator.

Certification of Lack of Significant Impact on a Substantial Number of Small Entities

Rule: Proposed action on revisions to the California State Implementation Plan for the Bay Area and South Coast Air Quality Management Districts (Miscellaneous revisions) (Section 110, Clean Air Act)

Pursuant to the provisions of 5 U.S.C. § 605(b), I hereby certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposed SIP approvals will only approve State actions and impose no new regulatory requirements. The proposed disapprovals will preserve the status quo. Sources will remain subject to existing requirements that were previously adopted by the State and approved by EPA. In addition, each of these proposed disapprovals involves only one district in California proposes only minor changes to the SIP which are not expected to create a significant economic impact. Finally, due to the nature of the federal-state relationship, federal inquiring into the economic reasonableness of the State actions could well be improper.

Dated: May 1, 1981.

Walter C. Barber,

Acting Administrator.

[FR Doc. 81-13799 Filed 5-6-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-9-FRL 1797-5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision: San Joaquin Valley

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare County Air Pollution Control Districts' (APCDs) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations to correct deficiencies in the SIP. The EPA invites

public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted on or before July 6, 1981.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Fresno County Air Pollution Control District, 1246 "L" Street, Fresno, CA 93721;

Kern County Air Pollution Control District, 1601 "H" Street, Suite 250, Bakersfield, CA 93301;

Kings County Air Pollution Control District, 330 Campus Drive, Hanford, CA 93230;

Madera County Air Pollution Control District, 135 West Yosemite Avenue, Madera, CA 93637;

Merced County Department of Public Health, 210 East 13th Street, Merced, CA 95340;

San Joaquin Air Pollution Control District, 1601 East Hazelton Street, P.O. Box 2009, Stockton, CA 95201;

Stanislaus Air Pollution Control District, 1050 N. Carpenter Road, Suite J, Modesto, CA 95351;

Tulare County Air Pollution Control District, Health Building, County Civic Center, Visalia CA 93277;

California Air Resource Board, 1102 "Q" Street, P.O. Box 2815, Sacramento CA 95812;

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief SIP Section, Air Programs Branch, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco CA 94105, (415) 556-2938.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on the indicated dates:

Fresno

October 15, 1979

Rule
301 Permit Fee
302 Permit Fee Schedules
305 Hearing Board Fees

May 13, 1980
411.1 Transfer of Gasoline into Vehicle Fuel Tanks—"Phase II"
416.1 Agricultural Burning

Kern

April 2, 1980

Rule
412.1 Transfer of Gasoline into Vehicle Fuel Tanks

Kings

October 15, 1979

Rule
111 Equipment Breakdown
301 Permit Fee
302 Hearing Board Fees
401 Visible Emissions
519 Emergency Variance

Madera

October 15, 1979

Rule
102 Definitions
103 Confidential Information
103.1 Inspection of Public Records
104 Enforcement
105 Order of Abatement
108 Source Monitoring
108.1 Source Sampling
110 Arrests and Notices to Appear
115 Applicability of Emission Limits
210.3 National Ambient Air Quality Standards
301 Permit Fees
305 Hearing Board Fees
402 Exceptions
409 Fuel Burning Equipment
410 Organic Solvents
416 Open Burning
417 Exceptions
417.1 Agricultural Burning
418 Incinerator Burning
419 Nuisance
420 Exception
501 Applicable Articles of the Health and Safety Code
504 Contents of Petitions
511 Notice of Hearing
519 Emergency Variance
601 General Statement
602 Applicable Areas
603 Episode Criteria Levels
606 Administration of Emergency Program
607 Advisory of High Air Pollution Potential
608 Declaration of Episode
609 Episode Action Stage 1
610 Episode Action Stage 2
611 Episode Action Stage 3
612 Episode Termination

December 15, 1980
412.1 Transfer of Gasoline into Vehicle Fuel Tanks

Merced

October 15, 1979

Rule
109 Equipment Breakdown

May 7, 1979
519 Emergency Variance

July 25, 1980
411.1 Transfer of Gasoline into Vehicle Fuel Tanks—Phase II

San Joaquin

May 23, 1979

Rule
110 Equipment Breakdown
301 Authority to Construct Fee
303 Permit Fee
304 Permit Fee Schedules
305 Hearing Board Fees
306 Emission Source Testing and Evaluation Fees
307 Technical Reports—Charges for
308 Rules and Regulations—Charges for
309 Copies—Charges for
310 Professional Consultation Fee
311 Special Burn Permit Fee
511 Notice of Hearing
521 Emergency Variance

October 15, 1979
209.3 State Ambient Air Quality Standards

September 5, 1980
411.2 Transfer of Gasoline into Vehicle Fuel Tanks

Stanislaus

May 23, 1979

Rule
110 Equipment Breakdown
519 Emergency Variance

October 15, 1979
209.3 National Ambient Air Quality Standards

October 7, 1980
411.1 Transfer of Gasoline into Vehicle Fuel Tanks

July 25, 1980
103 Confidential Information
301 Permit Fee
305 Hearing Board Fee

Tulare

May 23, 1979

Rule
111 Equipment Breakdown
402 Exceptions
417 Exceptions
417.1 Agricultural Burning
519 Emergency Variance

October 15, 1979
301 Permit Fee
302 Permit Fee Schedule

December 15, 1980
412.1 Transfer of Gasoline into Vehicle Fuel Tanks—Phase II

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as State Implementation Plan revisions. All rules submitted have been evaluated and found to be in accordance with EPA policy and 40 CFR Part 51, with certain exceptions.

It is the purpose of this notice to propose to approve all the rule revisions listed above and to incorporate them into the California SIP, with the exception of the rules discussed below:

Rule 519, *Emergency Variance*, of the Kings, Madera, Merced, Stanislaus and Tulare County APCDs does not provide adequate assurance for the attainment or maintenance of the National Ambient Air Quality Standards (NAAQS) during

equipment breakdown periods. Therefore Rule 519 is proposed to be disapproved for these APCDs. Further Rules 111(c), 109(c), 110(c) and 111(c) of the Kings, Merced, Stanislaus and Tulare County APCDs, respectively, are proposed to be disapproved since they rely on Rule 519.

Madera Rule 402(f) is proposed to be disapproved because this paragraph allows a source to be exempted from the visible emission regulations if the emission is the result of an equipment breakdown. The automatic exemption is inconsistent with EPA policy (42 FR 21472).

Revised subparagraph (c)(1) of Rule 417.1, *Agricultural Burning*, allows new exceptions to the agricultural burning requirements. This rule is proposed to be disapproved pending submittal of a control strategy demonstration showing the new exemptions would not interfere with the attainment or maintenance of the NAAQS.

No action is being taken for Madera County Rules 419, *Nuisance*, and 420, *Exception*, and Stanislaus County Rule 209.3, *National Ambient Air Quality Standards*, because they are not specifically directed at the attainment and maintenance of the NAAQS.

EPA is also proposing to rescind the Federal Regulation 40 CFR 52.256 "Control of Evaporative Losses from the filling of Vehicular Tanks" for Fresno, Kern, Madera, Merced, San Joaquin, Stanislaus and Tulare County APCDs. Rules submitted for these counties addressing, Stage II vapor recovery adequately control those sources addressed by the Federal Regulations, and therefore it is proposed to rescind 40 CFR 52.256.

The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before July 6, 1981, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. The miscellaneous SIP approvals announced today are not Major because they only approve state actions. They impose no new regulatory requirements. The disapprovals are also not Major because they preserve the status quo. Sources will remain subject to existing requirements that were previously approved by EPA. In addition, each of these disapprovals involves only a minor change to the SIP which is not expected to have a major economic effect.

Pursuant to the provisions of 5 U.S.C. § 605(B), the Administrator has certified that this proposed rule, if promulgated, will not have a significant impact or a substantial number of small entities. A copy of this certification is available for inspection in the rulemaking docket.

(Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)))

Dated: February 13, 1981.

Sheila M. Prindiville,

Acting Regional Administrator.

Certification of Lack of Substantial Impact on a Significant Number of Small Entities

Rule: Proposed action on California State Implementation Plan for the Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare County Air Pollution Control Districts. (Miscellaneous revisions) (Section 110, Clean Air Act)

Pursuant to the provisions of 5 U.S.C. § 605(b), I hereby certified that this proposal, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposed SIP approvals will only approve state actions and will not impose any new requirements. The proposed disapprovals will maintain the status quo, as existing requirements previously adopted by the state and approved by EPA will remain in effect. In addition, each of these actions affects only pollution sources in a single California County. Finally, due to the nature of the federal-state relationship under the Clean Air Act, federal inquiry into the economic reasonableness of the state's actions would serve no practical purpose and could well be improper.

Dated: May 1, 1981.

Walter C. Barber, Jr.,

Acting Administrator.

[FR Doc. 81-13798 Filed 5-6-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-3-FRL 1811-5]

Commonwealth of Virginia; Proposed Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Revisions to the Virginia State Implementation Plan (SIP) have been submitted to the Environmental Protection Agency (EPA) by the Governor on June 19 and August 19, 1980 to satisfy certain requirements of the Clean Air Act. This notice provides a description of the proposed SIP revisions, and indicates the results of EPA's review. EPA proposes to either approve or disapprove the proposed revisions based on the comments received and on determination of whether they meet the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51.

DATE: Comments must be submitted on or before June 8, 1981.

ADDRESSES: Copies of the proposed SIP revisions and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106, Attn: Patricia Sheridan.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, Southwest (Waterside Mall), Washington, D.C. 20460.

Virginia State Air Pollution Control Board, Ninth Street Office Building, Room 1106, Richmond, VA 23219, Attn: John M. Daniel, Jr.

All comments on the proposed revisions submitted within 30 days of publication of this Notice will be considered and should be directed to: Mr. James E. Sydnor, Chief, WVA/VA Section (3AH13), Air, Toxic and Hazardous Materials Division, Curtis Building, 6th and Walnut Streets, Phildelphia, PA 19106, Attn: AH026/027VA.

FOR FURTHER INFORMATION CONTACT: Miss Eileen M. Glen (3AH13), U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, PA 19106, Phone: (215) 597-8187.

SUPPLEMENTARY INFORMATION: The June 19, 1980 submittal consists of a 1979 Amendment to the provisions of Section 10-17.12 (Qualification of members of Board) of the Virginia Air Pollution Control Law and was submitted to satisfy the requirements of section 128 of the Clean Air Act regarding the composition of State Boards. EPA has reviewed the proposed revisions and believes that § 10-17.12 as amended, in conjunction with the Virginia Conflict of Interest Act, satisfies the requirements of section 128 of the Clean Air Act.

The August 19, 1980 submittal deals with revisions to §§ 1.02, 4.10, 4.11, 4.12, 4.13, and 4.102; Rule NS–3; and Appendices I, C, and O.

The Commonwealth provided proof that after adequate public notice, a public hearing was held regarding the proposed revisions on January 22, 1980 in Richmond, Abingdon, Roanoke, Lynchburg, Fredericksburg, Virginia Beach, and Falls Church.

No public hearing was held relative to Section 10–17.12 as it is a statutory rather than regulatory revision, debated and acted upon by the Virginia legislature.

As a result of EPA's preliminary review, we are proposing approval of the revisions listed below except where noted:

Regulation	Brief description
1.02	Terms Defined—added definitions of garbage, household refuse, refuse, and urban area.
4.10	Miscellaneous wording changes and the addition of § 4.10(g) prohibiting the burning of toxic or hazardous materials.
4.11	Miscellaneous wording changes, addition of provisions affecting AQCR 7, and the addition of a provision regarding forest management and agriculture practices.
4.12	Deleted. This provision related to AQCR 7 and has been rewritten and relocated to § 4.11(g).
4.13	Miscellaneous wording changes and the addition of a provision permitting burning of leaves where permitted by local law.
4.102	Addition of provisions regarding the export and import of motor vehicles.
App. C	Listing of urban areas defined geographically.

Evaluation: The definitions listed above have been reviewed by EPA and found to be acceptable as written.

Sections 4.10 (a) through (f) contain miscellaneous wording changes which are acceptable to EPA. The addition of § 4.10(g) prohibiting the open burning of toxic or hazardous materials is also acceptable.

Sections 4.11 (a) through (f) contain miscellaneous wording changes which are acceptable to EPA. Sections 4.11 (g) and (h) deal with open burning procedures in Air Quality Control Region (AQCR) 7 and replaces § 4.12 which has been deleted. The addition of sections 4.11 (g) and (h) and deletion of § 4.12 is acceptable to EPA.

Section 4.11(i) has been added to permit open burning for forest management and agriculture practices approved by the Board provided certain specified conditions are met. This section is acceptable to EPA.

Section 4.13 deals with the exclusion of certain open burning activities to this Rule. Section 4.13(a) contains minor wording changes and now requires an on-site inspection prior to the installation and operation of devices or methods used to conduct the burning. Section 4.13(b) has been added to allow the burning of leaves on residential property where permitted by local law. These changes are acceptable to EPA.

Sections 4.102(b) and (c) have been added to Rule EX–10 and deal with the export and import of used motor vehicles. While EPA recommends removal of the emission control device no more than five days prior to export, there is no objection to the Commonwealth permitting removal of the device up to ten days prior to shipment. This is a reasonably short period of time and, therefore, acceptable to EPA.

Appendix C is a listing of urban areas defined geographically and is acceptable to EPA.

The balance of the August 19, 1980 submittal deals with the New Source Performance Standards (Rule NS–3 and Appendix I) and is not reviewable under Section 110 of the Clean Air Act as a SIP revision. The appropriate law and regulations covering these standards are contained at section 111(c) of the Clean Air Act and at 40 CFR Part 60, Subpart B. This portion of the submittal will be reviewed in accordance with the above regulations and the Delegation of Authority and no further rulemaking is necessary.

Appendix O was submitted for information purposes only and is not part of the proposed rulemaking.

Conclusion: The public is invited to submit, to the address stated above, comments on the amendments to the regulations as a revision of the Virginia State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendment meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it does not satisfy the criteria set forth in Section 1(b) of the Executive Order. Today's action simply approves a regulation that is already in effect in the Commonwealth and imposes no new requirements.

This regulation was submitted to the Office of Management and Budget for review as required by E.O. 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection during normal business hours at the following office: Mr. James E. Sydnor, VA/WVA Section (3AH13), Air and Hazardous Materials Division, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: AH026/027VA.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only approves state action. It imposes no new requirements. Moreover, due to the nature of the federal-state relationship under the Clean Air Act, federal inquiry into the economic reasonableness of the state action would serve no practical purpose and could well be improper. On January 27, 1981, the Administrator published the required certification for all SIP approvals under Section 110 of the Act at 45 FR 8709.

(42 U.S.C. 7401–7642)

Dated: March 23, 1981.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 81–13678 Filed 5–6–81; 8:45 am]

BILLING CODE 6560–38–M

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40 CFR Part 180

[PP8E2124/P167A; PH–FRC 1821–1]

Amiben; Proposed Tolerance; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule, correction.

SUMMARY: This notice corrects a proposed rule relating to a tolerance for amiben that published in the **Federal Register** of March 18, 1981 (46 FR 17229) FR Doc 81–8273.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 509C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7123).

SUPPLEMENTARY INFORMATION: EPA issued a proposal that published in the **Federal Register** of March 18, 1981, that the Interregional Research Project No. 4 (IR–4) had submitted a pesticide petition (PP 8E2124) to the EPA. The petition proposed establishment of a tolerance for amiben in or on pigeon peas and pigeon pea forage at 0.1 ppm.

An erroneous statement appeared on page 17230, column 1, paragraph 2, which read: "Amiben is a candidate for a rebuttable presumption against registration (RPAR) since it may exceed

the risk criteria described in 40 CFR 162.11(a)(3)(ii)(B) for chronic effects. The agency will reevaluate all the existing tolerances for amiben through the RPAR process."

Amiben is not a candidate for a rebuttable presumption against registration (RPAR); a registration standard, not an RPAR, is being developed for amiben. Therefore, the document is corrected by deleting the erroneous statement indicated above from the tolerance proposal document.

Dated: April 29, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-13825 Filed 5-6-81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-283; RM-3713]

TV Broadcast Station in Roanoke, Va.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF television Channel 38 to Roanoke, Virginia, in response to a petition filed by Vine and Branch, Inc. The proposed assignment could provide for a fourth commercial television station.

DATES: Comments must be filed on or before June 22, 1981, and reply comments on or before July 13, 1981.

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

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

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Roanoke, Virginia).

Notice of Proposed Rule Making

Adopted: April 23, 1981.

Released: May 1, 1981.

By the Chief, Policy and Rules Division.

1. A petition for rule making [1] was filed by Vine & Branch, Inc. ("petitioner") requesting the assignment of UHF television Channel 38 to Roanoke, Virginia, as that community's fourth commercial television channel assignment. Petitioner stated its intent to apply for the channel, if assigned. Comments were filed by the Association of Maximum Service Telecasters, Inc. ("AMST"), to which petitioner responded.

2. Roanoke (population 92,115)[2] is located in the western portion of Virginia, approximately 217 kilometers (135 miles) west of Richmond, Virginia. It currently has the following television assisgnments: Channel 7 (WDBJ-TV), Channel 10 (WSLS-TV), Channel *15 (WBRA-TV) and Channel 27 (2 applications pending). The proposed assignment would require a site restriction of approximately 10 kilometers (6.3 miles) northwest of the city.

3. Petitioner claims that the population of Roanoke has increased from 92,000 in 1970, to 107,500 in 1979. It further claims that Roanoke is a vital economic center, employing more than 150,000 persons in manufacturing, retail trade, community services and government. Petitioner states that based on the present economy and population, the city is deserving and capable of supporting a fourth commercial television service. Economic information was submitted to justify the need for an additional assignment to Roanoke.

4. The comments of AMST essentially seve to remind the Commission of the need to impose a site restriction on the assignment of Channel 38 to Roanoke. In particular, the site of other Roanoke TV stations (Poor Mountain) or the city of Roanoke, itself, could not be used by a Channel 38 station without multiple short spacings.

5. In reply, petitioner indicated it planned to comply with the mileage separation requirements or, if its plans change, to seek a waiver.

6. We believe that sufficient information has been provided to justify proposing the assignment of Channel 38 to Roanoke as a fourth commercial television channel. The site restriction of approximately 10 kilometers (6.3 miles) northwest does not pose an obstacle to this assignment in terms of the information provided thus far.

7. Accordingly, it is proposed to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, for the community listed below as follows:

City	Channel No.	
	Present	Proposed
Roanoke, Va	7-, 10, *15, 27	7-, *15, 27, 38

8. 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 in required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before June 22, 1981, and reply comments on or before July 13, 1981.

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 Television Table of Assignments, § 73.606(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 §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

11. 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, 307, 48 Stat., as amended, 1066, 1082, 1083, 47 U.S.C. 154, 303, 307)

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 § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

[1] *Public Notice* was given on August 6, 1980, Report No. 1242.

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

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 § 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 §§ 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 § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 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 it headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-13707 Filed 5-6-81; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-281; RM-3707]

FM Broadcast Station in Deer Park, Wash.; Proposed Changes in Table of Assignments.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 296A to Deer Park, Washington, in response to a petition filed by Tri County Broadcasting. The assignment would provide Deer Park with a first local aural service.

DATES: Comments must be filed on or before June 22, 1981, and reply comments must be filed on or before July 13, 1981.

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

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

SUPPLEMENTARY INFORMATION: In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Deer Park, Washington).

Adopted: April 23, 1981.

Released: May 1, 1981.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making [1] filed by Gerald E. Carpenter, Eric E. Carpenter, and Louis Musso III, doing business as Tri-County Broadcasting ("petitioner"), requesting the assignment of FM Channel 296A to Deer Park, Washington, as that community's first FM assignment. No comments were filed opposing the assignment.

2. Deer Park (population 1,295) [2] is located in Spokane County (population 287,487) approximately 368 kilometers (230 miles) east of Seattle, Washington, and 32 kilometers (20 miles) north of Spokane, Washington. It has no local aural service.

[1] *Public Notice* of the petition was given on July 21, 1980, Report No. 1240.

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

3. Petitioner states that Deer Park's population has increased by 43 percent, a fact that can be attributed to the outward migration from the Spokane urban area. Petitioner has submitted demographic and economic information with respect to Deer Park which demonstrates the need for a first FM assignment.

4. Canadian concurrence in this proposal must be obtained, since Deer Park is located within 250 miles of the Canadian border.

5. In view of the fact that the proposed FM channel assignment would provide for a first local aural broadcast service to Deer Park, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to Deer Park, Washington, as follows:

City	Channel No.	
	Present	Proposed
Deer Park, Wash.		296A

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 June 22, 1981, and reply comments on or before July 13, 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 Mark Lipp, 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, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

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 § 0.281(b)(6) of the Commission's Rules, *it is proposed to amend* the FM Table of Assignments, § 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 expectecd 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 § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict wtih the proposals(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 §§ 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 § 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.

[FR Doc. 81-13792 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-282; RM-3767]

FM Broadcast Station in Sonora, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 228A to Sonora, California, as the community's second FM assignment at the request of Donald E. Leutz, Jr. and Sylvia B. Leutz.

DATES: Comments must be filed on or before June 22, 1981, and reply comments on or before July 13, 1981.

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

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

SUPPLEMENTARY INFORMATION:

Adopted: April 23, 1981.

Released: April 30, 1981.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Sonora, California) BC Docket No. 81-282 RM-3767 Notice of Proposed Rulemaking.

1. *Petitioner, Proposal, Comments.*

(a) A petition for rule making [1] was filed by Donald E. and Sylvia B. Leutz ("petitioner"), requesting the assignment of either Channel 228A or Channel 288A to Sonora, California, as that community's second FM assignment.

(b) Channel 228A can be assigned to Sonora in accordance with the Commission's minimum distance separation requirements. However, a channel 288A assignment to Sonora would be short-spaced to the new transmitter site of Station KOZZ, Reno, Nevada (Channel 289), by approximately 16 kilometers (10 miles).

(c) Petitioner states that it will apply for authority to build and operate a station on either channel, if assigned to Sonora. Petitioner prefers the assignment of Channel 288A because it is at the opposite end of the FM dial from the existing Sonora station. Also, petitioner states that the Yosemite National Park and Curry Company operate a translater on Channel 228A. No other comments were received.

2. *Demographic Data:*

(a) *Location:* Sonora, the seat of Tuolumne County, is located approximately 184 kilometers (115 miles) east of San Francisco, California.

(b) *Population.*[2] Sonora—3,100; Tuolumne County—22,169.

(c) *Present aural service:* Sonora is presently served by FM Station KROG (Channel 224A) and full-time AM Station KVML.

3. *Economic considerations:* Petitioner estimates that the present population of Sonora and the immediately adjacent unincorporated areas in 10,000. The estimated population of Tuolumne County is 35,300. According to petitioner, tourism, construction, and recreation are the major forces in the county's economic base. Lumbering and the manufacture of wood products also play a significant role in the local economy.

4. *Preclusion study:* Petitioner indicates that the assignment of Channel 228A to Sonora will cause preclusion on Channels 227, 228A and 230. It appears from the maps provided by petitioner that several communities are located in the area precluded on Channel 228A. Petitioner, in its comments, should list those communities in the precluded areas which have a population over 1,000, and which have no FM assignments, and state whether

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[1] *Public Notice* of the petition was given October 17, 1980, Report No. 1253.

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

alternative FM channels can be assigned to them.

5. The Commission believes that it would be in the public interest to propose the assignment of Channel 228A to Sonora, California, as that community's second FM assignment. Channel 288A is not proposed for assignment because of the short-spacing which would result with Channel 289 at Reno, Nevada.

6. In light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as follows:

City	Channel No.	
	Present	Proposed
Sonora, Calif.	224A	224A, 228A

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 June 22, 1981, and reply comments on or before July 13, 1981.

9. 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 1549, published February 9, 1981.

10. For further information concerning this proceeding, contact Michael A. McGregor, 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, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

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, § 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 consideraton 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. 81-13796 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 76

[CT Docket No. 79-193; RM-3115]

Cable Television Services, Petition by Television Muscle Shoals, Inc.; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration of actions in rulemaking proceeding; extension of reply comment period.

SUMMARY: Request for extension of time for the filing of reply comments until May 7, 1981, on the petition for reconsideration of an amendment to § 76.51 major television markets, submitted by Television Muscle Shoals, Inc., is granted by Order of the Chief, Cable Television Bureau upon a finding that grant of the extension will serve the public interest.

DATES: Replies must be submitted by May 7, 1981.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William H. Johnson, Cable Television Bureau, (202) 632-6458.

SUPPLEMENTARY INFORMATION: In the Matter of Amendment of § 76.51 of the Commission's Rules and Regulations.

Order

Adopted: April 27, 1981.

Released: April 27, 1981.

By the Chief, Cable Television Bureau.

1. On April 21, 1981, Television Muscle Shoals, Inc., licensee of Station WOWL-TV (NBC, channel 15), Florence, Alabama, by its attorney, filed a request for an extension of time to file reply comments to oppositions filed with respect to its petition for reconsideration in the above-captioned proceeding (46 FR 19853, April 1, 1981)[1] from April 27, 1981, until May 7, 1981. The request for time extension is unopposed.

[1] Editorial note: The petition for reconsideration was submitted for publication in the Notices section of the Federal Register.

2. In support of the request, counsel for Television Muscle Shoals indicates that the additional time is needed as a result of "out of town travel and the press of other business." It is also stated that the affidavits which are needed to support the reply pleading will not likely arrive by the presently scheduled reply date. Further, Television Muscle Shoals avers that no objection to the requested extension has been raised by any of the parties which have filed oppositions to its petition for reconsideration.

3. We do not believe that the limited additional time requested by Television Muscle Shoals will unduly delay consideration of the matters in the above-captioned matter but rather might well contribute toward further delineation of the issues in the proceeding. In addition, none of the parties participating in this proceeding has indicated opposition to the time extension request. For these reasons, we find that good cause has been shown and that grant of the request will serve the public interest.

Accordingly, it is ordered, That the date for filing reply comments in ths proceeding is extended from April 27, 1981, to May 7, 1981.

This action is taken by the Chief, Cable Televison Bureau pursuant to authority delegated by § 0.288 of the Commission's Rules and Regulatons.

Federal Communications Commission.

Albert J. Baxter,

Acting Chief, Cable Television Bureau.

[FR Doc. 81-13791 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 100 through 199

Transport of Radioactive Materials; Request for Public Comment on Proposed Changes to International Regulations

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Request for Public Comment.

SUMMARY: The International Atomic Energy Agency (IAGA) has published for comment a proposed revision of its "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6". This notice invites public comment on the desirability of the proposed changes as they will affect international transportation and will be considered for inclusion in the U.S. domestic regulations.

DATE: Comments should be received by July 31, 1981.

ADDRESS: Send comments and requests for documents to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th Street, S.W., Washington, D.C. 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday. Telephone (202) 426-3148.

FOR FURTHER INFORMATION CONTACT: R. R. Rawl, Office of Hazardous Materials Regulation, Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone 202-426-2311.

SUPPLEMENTARY INFORMATION: In 1959, at the request of the Economic and Social Council of the United Nations, the IAEA undertook the development of international regulations for the safe transportation of radioactive materials. The initial regulations published by the IAEA in 1961 were recommended to member states as the basis for national regulations and for application to international transportation. As a result of extensive revision in 1963 and 1964, and further effort in 1966, a version of the IAEA "Regulations for Safe Transport of Radioactive Materials, Safety Series No. 6" was published in 1967. The IAEA regulations have since been adopted generally by most of the nations of the world as a basis for their own national regulations governing the transportation of radioactive materials.

Since 1966, the U.S. Nuclear Regulatory Commission (USNRC) (formerly the Atomic Energy Commission (AEC)) has issued regulations which are substantially in conformance with IAEA standards for fissile radioactive materials and large quantities of radioactive materials. On October 4, 1968, the Hazardous Materials Regulations Board of the DOT published amendments which were also in substantial conformance with the 1967 IAEA standards (Docket HM-2, 33 FR 14918).

In February 1969, recognizing that the international standards should be revised from time-to-time on the basis of scientific and technical advances, as well as accumulated experience in their application, the IAEA invited all of its member states to submit comments and suggested changes to the regulations. Another aim was to remove any ambiguities and to simplify the presentation of the text of the regulations.

Comments and suggested revisions to the IAEA regulations were then collected by DOT from the AEC, the American National Standards Institute (ANSI), the Atomic Industrial Forum, and others. As a result of that effort, a compilation of some 40 comments was then forwarded by DOT to the IAEA in July 1969. Some of these suggested changes were intended to make a more positive alignment of the U.S. regulations with the IAEA regulations possible.

A final Review Panel of experts was convened by the IAEA in October 1971, to finalize the revisions. As a result of that Panel, the IAEA subsequently issued its "Safety Series No. 6, Regulations for the Safe Transport of Radioactive Materials, 1973 Revised Edition," in late 1973. Since that time most major countries and international transport organizations, i.e., Inter-Governmental Maritime Consultative Organization (IMCO), International Air Transport Association (IATA), European Agreement for the Carriage of Dangerous Goods by Rail (RID); European Agreement Concerning International Carriage of Dangerous Goods by Road (ADR), have completed revising their own regulations to achieve conformity with the 1973 IAEA Standards.

Since it is recognized that the international standards need to be updated periodically (as was accomplished by the 1973 revision), the IAEA has undertaken a review and revision of the regulations slated for completion in 1983. A request for public input (44 FR 20532) was issued by MTB so that U.S. input to this revision would be as complete as possible. All comments received were compiled and forwarded to the IAEA and were considered at the Advisory Group for the Comprehensive Review and Revision of the Agency's Transport Safety Regulations which met in September, 1980. Careful consideration of these and all other comments submitted by other countries led to the development of a number of changes even in light of a very strong emphasis on revisions only where clearly justified.

As a result of the September 1980 Advisory Group meeting, a draft of the proposed "1983 Revised Edition" of the IAEA regulations has been published by the IAEA for comment by Member States. This draft contains all of the proposed revisions except those pertaining to transport criticality safety

which will be considered by a separate Technical Committee.

The MTB is now requesting public comment on the proposed IAEA 1983 revision and is making available to the public copies of:

(1) the "First Draft Revision" of the 1983 proposed regulations;

(2) a "Paragraph Cross-Reference" between the 1973 Revised Edition of the IAEA regulations and the proposed version; and

(3) an "Annex" which provides some background and highlights three specific proposed changes.

These documents are available free of charge from the Dockets Branch at the address given above.

In providing comments on the proposal it would be most helpful to MTB if commenters would provide specific information on their position concerning the changes they wish to address. Some of the impacts that would be helpful to have information on include:

(1) radiological impacts such as expected radiation dose increase or decrease which will result from the proposed change;

(2) economic impacts resulting from necessary modifications to shipping methods if the change is adopted;

(3) ease or difficulty of understanding and applying the proposed change; and

(4) suitability of the proposed change for application to domestic shipments.

All comments received will be considered and included, as far as practical, in the U.S. Comments to the IAEA on the proposal.

Issued in Washington, D.C. on May 1, 1981.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 81-13851 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-60-M

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49 CFR Part 173

[Docket HM-178; Advance Notice]

Definition of Flammable Solid

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The MTB is publishing this advance notice of proposed rulemaking to request comments on efforts to make the definition of a flammable solid more specific and to provide tests which shippers may use to determine whether their products are flammable solids for purposes of transportation. The present definition of a flammable solid is so vague that many shippers are unable to determine if certain of their materials fall within the definition of this hazard class.

DATE: Comments must be received by August 20, 1981.

ADDRESS: Comments must be addressed to the Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted, if possible, in five copies. The dockets branch is located in room 8426 of the NASSIF Building, 400 7th Street, S.W., Washington, D.C. 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday thru Friday. Telephone (202) 426-3148.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Ke, Sciences Branch, Technical Divison, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590. (202-426-2311).

SUPPLEMENTARY INFORMATION: The flammable solid class has within it the most diversified types of hazardous materials of any of the hazard classes defined in the Department's Hazardous Materials Regulations. For this reason, the MTB is considering dividing the class into several groups and is proposing test methods and criteria which will enable a shipper to determine whether a material he wishes to ship falls within one of those groups. The principal reason for this advance notice of proposed rulemaking is to request comments from interested persons as to the adequacy of the defintion criteria under consideration in this ANPRM including the reproducibility of the results of the tests in Appendix B. Specific questions on which the MTB would like to receive comments and meaningful data are:

1. Are there any additional types of materials which should be included in the flammable solids class (e.g., should the temperature in (g) be lowered to include materials such as molten sulfur)? Should some of the proposed groups be eliminated?

2. If the definition in (g) is adopted, certain molten metals would become subject to the regulations. What type of packaging controls should the MTB consider for such materials. (The MTB has been contacted by officials of two States concerning the regulation of molten materials).

3. Current § 171.8, as pertinent here, defines "Water reactive material (solid)" as a material, that on contact with water, will evolve flammable or toxic gases in dangerous quantities. Is there any substance known which, on contact with water, will evolve a toxic nonflammable gas? If no such material is known to exist, water reactive materials would be included in paragraph (f) of the proposed definition.

4. Are there any consensus standard test methods which could be used in place of, or in addition to, the suggested methods?

For tests, such as the bacterial action or fermentation test, the MTB does not have specific information regarding sample sizes and temperature limitations. It is, therefore, requested that persons with experience with this type of spontaneous heating provide the MTB with pertinent information regardng development of such criteria.

The MTB anticipates that a number of highly competent and qualified experts will, upon review of Appendix B, consider the proposed methods for testing of flammable solids to be less than representative of currently avilable technology. This is intentional. The MTB has attempted to develop methods that would not require the acquisition of expensive and complicated test equipment. For example, metal drums could be used as test chambers and ovens with minor modifications.

This advanced notice of proposed rulemaking requests comments from interested persons regarding the definition of a flammable solid. Such comments may be used for future rulemaking purposes.

In consideration of the foregoing, the MTB is considering the issuance of a proposal to revise the flammable solid definition as follows:

§ 173.150 Flammable solid; definition.

For the purpose of this subchapter, a "Flammable Solid," is any solid material, including gels and pastes, other than one classed as an explosive or a blasting agent, which is described in the following paragraphs:

(a) Pyrophoric solids which ignite when exposed to moist air at or below 55°C (130°F).

(b) Solids subject to spontaneous heating by reaction with oxygen and which contain unsaturated oils or other easily oxidizable substances.

(c) Solids subject to spontaneous heating by fermentation or bacterial action and which self-heat due to the action of bacteria or other organisms.

(d) Readily ignitable solids which are easily ignited and burn so vigorously and persistently as to create a hazard in transportation.

(e) Solids which can be ignited by friction.

(f) Solids which in contact with water evolve flammable gases.

(g) Solids or molten materials shipped at (elevated) temperatures exceeding 315°C (600°F), which can cause ignition of combustible materials.

Tests to be used to evaluate the above descriptions are found in Appendix B to this Part.

Appendix B: Methods for Testing for Flammable Solids

Pyrophoric Solids

At least on pound of material, in the particle size in which it will be shipped, shall be placed in an apparatus where the temperature, humidity and rate of air flow can be controlled. Air at 55°C (130°F) and having a relative humidity of 50 percent (±5 percent) shall be passed at 8 kilometers per hour through the apparatus containing the material. A material that ignites in one hour in this test is classed as a flammable solid and considered a pyrophoric material.

Solids Subject to Heating by Reaction With Oxygen

The material, other than a gel or paste, in the particle size in which it will be shipped shall be placed in a constant temperature oven having a test chamber with a volume of not less than 120 liters. The temperature control of the oven shall be set so as to maintain a temperature of 55°C (130°F) ±3°C in the oven when it is empty. Fifty kilograms of the material to be tested, or an amount occupying 50 percent of the volume of the test chamber, whichever is less, shall be placed in a holder within the oven. The holder shall be made of wire mesh with a mesh size no smaller than necessary to contain the materials and shall be supported in the geometrical center of the oven so as to clear its bottom and sides by no less than 5 centimeters. Air shall be introduced into the bottom of the test chamber at a rate, in liters per hour, no greater than 3 percent, nor less than 2 percent, of the volume of the test chamber. If the temperature at the center of the sample rises 20°C (36°F) or more within 7 days of initiation of the test, the material is classed as a flammable solid.

Solids subject to Heating by Fermentation or Bacterial Action

The temperature control of an oven is set to maintain a temperature of 37.8°C (100°F) when the oven is empty. One pound of material under test shall be in the oven for 7 days. If the temperature at the center of the sample rises 20°C (36°F) or higher during this period, the material is classed as a flammable solid.

Readily ignitable solids which burn vigorously and persistently:

Ease of ignition shall be determined by attempting to ignite 10 grams of the material under test, arranged in a conical (when practical) pile with:

1. Mechanical (metal) sparks
2. Electrostatic sparks (0.006 joules delivered from a 0.002 to 0.004 microfarad capacitor)
3. A small flame source such as a match.

A material which can be ignited by one of these sources must be considered readily ignitable. Whether the material burns vigorously and persistently shall be determined as follows: when 50 ml of water are applied to 50 g of a material which is burning and the water produces no effect or increases the rate of burning, that material is considered to burn so vigorously and persistently as to create a hazard in transportation. A material which is readily ignitable and burns vigorously as defined in one of the above tests is classed as a flammable solid.

Solids Which Can Be Ignited by Friction

A solid which is as sensitive or more sensitive to friction than phosphorous pentasulfide is classed as a flammable solid. Tests may be conducted on any commercial friction tester or using a laboratory constructed apparatus which gives comparable results.

Solids Which Emit Flammable Gases in Contact With Water

Twenty-five grams of the substance being tested are placed in a gas generator and treated with 50 ml of water. Any material which evolves a flammable gas at a rate exceeding one ml per gram per hour must be classed as a flammable solid.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 106)

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 and DOT implementing procedures (44 FR 11034), nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). Issued in Washington, DC on April 30, 1981.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 81-13843 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-60-M

Notices

Federal Register
Vol. 46, No. 88
Thursday, May 7, 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

Forest Service

Northeastern Area-State and Private Forestry, Cooperative Federal-State Spruce Budworm; Integrated Pest Management, Maine, 1981

An environmental assessment that discussed the Cooperative 1981 Integrated Pest Management Program for spruce budworm in Maine has been prepared and made available to the public. A Finding of No Significant Impact was made, and because this program has effects considered of national concern, a notice of the finding was published in the **Federal Register**, Volume 46, Number 61, March 31, 1981.

No comments were received on the environmental assessment and Finding of No Significant Impact.

My conclusion from this review is that no new information not previously considered and appropriate to the analysis has been presented, and that the analysis and evaluation described in the environmental assessment are adequate.

Concerns appropriate to the analysis have been previously expressed prior to preparation of the environmental assessment. These concerns were responded to in a Programmatic Environmental Impact Statement for a 5-year (1981–1985) Spruce Budworm Management Program for Maine. They were used in developing management requirements, constraints and mitigation measures for the program.

Based on the analysis and evaluation described in the environmental assessment, and the Finding of No Significant Impact, it is my decision to provide Federal financial assistance to carry out this program in 1981, to the extent Federal funds are available for this purpose. With this financial assistance in 1981, the Maine Bureau of Forestry will provide silvicultural assistance to owners of small woodlands, utilization and marketing assistance, administer timber supply and demand analyses, and apply chemical insecticides on about 1.0 million acres and a biological insecticide) *Bacillus thuringiensis*) on about 100 thousand acres in Aroostook, Franklin, Hancock, Penobscot, Piscataquis, Somerset and Washington Counties. Landowners and mill owners will be applying silvicultural and utilization marketing methods in these and other counties within the spruce-fir type to reduce losses while implementing integrated pest management. The specified requirements, mitigation measures, and monitoring described in the environmental assessment are adopted as minimums.

Federal participation in this integrated pest management program in future years will depend heavily upon an Environmental Analysis and a demonstrated commitment by the State of Maine to significantly reduce the use of chemical insecticides and to significantly increased silvicultural assistance to owners of small woodlands, utilization marketing assistance, and the use of biological insecticides.

I have reviewed the factors considered in making the Finding of No Significant Impact and have determined that there are no significant factors or adverse effects which have not already been addressed in the PEIS, USDA FS NA–81–01. This Notice constitutes my final determination that an environmental impact statement is not needed for the 1981 program.

Implementation may take place immediately after the date of this decision. This decision is not subject to administrative review (appeal) pursuant to 36 CFR 211.19.

Dated: May 1, 1981.

Allen J. Schacht,

Director, Northeastern Area, State and Private Forestry, 370 Reed Road, Broomall, PA 19008.

[FR Doc. 81-13685 Filed 5-6-81; 8:45 am]

BILLING CODE 3410-11-M

Forest Land and Resource Management Plan, Uinta National Forest, Juab, Sanpete, Utah, and Wasatch Counties, Utah; Revised Notice of Intent To Prepare an Environmental Impact Statement

A Notice of Intent to Prepare an Environmental Impact Statement for the Uinta National Forest Land and Resource Management Plan was published in the **Federal Register**, Volume 44, No. 36, p. 10522, February 21, 1979.

The estimated dates for filing the Draft and Final Environmental Impact Statements with the Environmental Portection Agency and release to the public have been postponed. The Draft Environmental Impact Statement is now expected in September 1981, and the Final Environmental Impact Statement is proposed for release in April 1982.

All other conditions of the original Notice of Intent remain the same.

Dated: April 28, 1981.

Jeff M. Sirmon,

Regional Forester.

[FR Doc. 81-13822 Filed 5-6-81; 8:45 am]

BILLING CODE 3410-10-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping—Precipitated Barium Carbonate From the Federal Republic of Germany; Final Determination of Sales at Less Than Fair Value

AGENCY: Department of Commerce; ITA.

ACTION: Final Determination of Sales at Less than Fair Value.

SUMMARY: We have determined that precipitated barium carbonate from the Federal Republic of Germany is being sold in the United States at a weighted-average dumping margin of 9.9 percent. The U.S. International Trade Commission is determining whether these imports are materially injuring or threatening material injury to a U.S. industry.

EFFECTIVE DATE: May 7, 1981.

FOR FURTHER INFORMATION CONTACT: Alain Letort, Office of Investigations, Import Administration, International Trade Administration, U.S. Department

of Commerce, Washington, D.C. 20230 (202-377-3534).

SUPPLEMENTARY INFORMATION:

Procedural Background

On September 9, 1980, we received a petition in proper form from counsel representing FMC Corporation, Chemical Products Corporation ("CPC") and Sherwin-Williams Company. The petition alleged that precipitated barium carbonate from the Federal Republic of Germany ("FRG") is being "dumped", that is sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) ("the Act"), thereby materially injuring a U.S. industry. Because the petition contained sufficient grounds to warrant an investigation, on September 30, 1980, we initiated an antidumping investigation and informed the U.S. International Trade Commission ("ITC") of our action (45 FR 66185).

On the basis of information the ITC developed during its preliminary investigation, the Commission unanimously determined, on October 21, 1980, that there is a reasonable indication that these imports are materially injuring, or threatening to injure materially, a U.S. industry (45 FR 73812).

On February 11, 1981, we announced our preliminary determination that there was a reasonable basis to believe or suspect that precipitated barium carbonate from the FRG was, or was likely to be, sold in the United States at less than fair value (46 FR 12767).

Scope of the Investigation

This determination covers precipitated barium carbonate, which is currently classifiable under item 472.06 of the Tariff Schedules of the United States. In its granular form (glass grade), barium carbonate is used in the glass industry and in the manufacture of black-and-white television picture tubes. In powder from (ceramic grade), it is used in the ferrite, ceramic and chemical industries. Other applications are in the manufacture of reflective beads and photo paper, in the formulation of brine treatments, and in the production of other barium chemicals.

The period of investigation was April 1 through September 30, 1980. As Kali-Chemie AG ("Kali") of Hannover (FGR) produced virtually all of the barium carbonate sold to the United States during the period under consideration, we limited the investigation to sales from Kali.

Methodology

U.S. Price

Since nearly all sales of precipitated barium carbonate from the FRG to unrelated U.S. customers were concluded before the merchandise was imported into the United States, we used purchase price, as defined in section 772(b) of the Act, to determine the U.S. price.

We calculated purchase price on the basis of C.I.F. prices to unrelated U.S. purchasers with deductions from home market inland freight, ocean freight and insurance.

Foreign Market Value

We calculated foreign market value on the basis of the net weighted-average price per ton of the merchandise in the home market. We added U.S. packing costs to the unpacked home market price. Claims were made for adjustments for differences in level of trade and differences in circumstances of sale.

We disallowed the claim for differences in level of trade, since respondent presented no evidence that the additional costs incurred in selling to end-users in the home market would not have been incurred in sales to distributors (19 CFR 353.19).

We rejected the claim for a circumstance of sale adjustment for advertising since all advertising appeared to be directed at the purchasers of the merchandise and was not attributable to a later sale of the merchandise as required in § 353.15, Commerce Regulations (19 CFR 353.15).

We disallowed the claim for a circumsance of sale adjustment for technical services because the respondent did not adequately justify the amount of the deduction to be applied.

Verification

In making our final determination, in accordance with section 776 of the Act, we have verified all the information we relied upon, using the corporate books and records of the German company involved, Kali-Chemie AG of Hannover (FRG).

Final Determination

Based on the preceding criteria, and in accordance with § 353.44 of the Commerce Regulations, we have determined that exports of precipitated barium carbonate from the FRG are being sold at less than fair value within the meaning of section 731 of the Act. Margins were found on 91.9 percent of the merchandise sold to unrelated U.S. purchasers during the period, and they ranged from 3.3 to 38.96 percent. The weighted-average margin over all sales was 9.9 percent.

We have provided interested parties with an opportunity to present oral views in accordance with 19 CFR 353.47 and written views in accordance with 19 CFR 353.46(a).

Continuation of Suspension of Liquidation

The liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended. The Customs Service will require posting of a cash deposit, bond, or other security in the amount of 9.9 percent of the f.o.b. ex-factory value of precipitated barium carbonate from the FRG for all entries, or withdrawals from warehouse, for consumption on or after the date of publication of this notice. The cash deposits, bonds or other security on merchandise entered since the preliminary determination will remain in effect.

ITC Notification

We have referred this case to the ITC so that it may determine whether these imports are materially injuring a U.S. industry. That determination is due on or before June 22, 1981.

As section 735(c)(1)(A) of the Act requires, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC rules that material injury does not exist, this case will be terminated, and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC rules that such injury does exist, within seven days we will issue an antidumping duty order, directing customs officers to assess an antidumping duty on all precipitated barium carbonate from the FRG, entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, which was sold at less than foreign market value.

John D. Greenwald,

Acting Assistant Secretary for Trade Administration.

May 1, 1981.

[FR Doc. 81-13686 Filed 5-6-81; 8:45 am]

BILLING CODE 3510-25-M

Antidumping—Strontium Nitrate From Italy; Final Determination of Sales at Less Than Fair Value

AGENCY: Department of Commerce: ITA.

ACTION: Final determination of sales at less than fair value.

SUMMARY: We have determined that strontium nitrate from Italy is being sold in the United States at a weighted-average dumping margin of 2.6 percent. The U.S. International Trade Commission is determining whether these imports are materially injuring or threatening material injury to a U.S. Industry.

EFFECTIVE DATE: May 7, 1981.

FOR FURTHER INFORMATION CONTACT: Michael Hudak, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 (202-377-3530).

SUPPLEMENTARY INFORMATION:

Procedural Background

On September 9, 1980, we received a petition in proper form from counsel representing FMC Corporation, Chicago, Illinois. The petition alleged that strontium nitrate from Italy is being "dumped", that is, sold in the United States at less than fair value within the meaning of Section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) ("the Act"), thereby materially injuring a U.S. industry. Because the petition contained sufficient grounds to warrant an investigation, on September 30, 1980, we initiated an antidumping investigation and informed the U.S. International Trade Commission ("ITC") of our action (45 FR 66187).

On the basis of information the ITC developed during its preliminary investigation, the Commission unanimously determined on October 21, 1980, that there is a reasonable indication that these imports are materially injuring, or are threatening to injure materially, a U.S. industry (45 FR 73812).

On February 11, 1981, we announced our preliminary determination that there was a reasonable basis to believe or suspect that strontium nitrate from Italy was, or was likely to be, sold in the United States at less than fair value (46 FR 12769).

Scope of the Investigation

This determination covers strontium nitrate, which is a chemical compound currently classifiable under item 421.74 of the Tariff Schedules of the United States. It is used predominantly for producing red colors during combustion of pyrotechnics, such as distress signals, rockets, flares, fusees and fireworks.

The investigation covers the period January 1, 1980 through September 30, 1980. As Societa Bario e Derivati SpA ("SABED") of Massa, Italy produced virtually all of the strontium nitrate sold to the United States during the period under consideration, we limited the investigation to sales from SABED.

Methodology

U.S. Price

Since all sales of strontium nitrate from Italy to an unrelated U.S. customer were concluded before the merchandise was imported into the United States, we used purchase price, as defined in section 772(b) of the Act, to determine the U.S. price. We calculated purchase price on the basis of a packed price for Massa, Italy.

Foreign Market Value

Constructed value is the basis for foreign market value because we determined that neither the sales in Italy, or for exportation to countries other than the United States, constitute a viable market.

In our preliminary determination, we used the first quarter 1980 rate of exchange to convert the constructed value from lire to dollars. Counsel for the importer and counsel for the respondent have argued that this was improper, since all terms necessary for a legally enforceable contract were not fixed until each specific shipment was requested by the importer and confirmed by respondent and that a blanket order forwarded by the importer in January 1980, and confirmed by respondent in February 1980, was not binding. We scrutinized all the documents pertaining to this issue and have concluded that the terms of sale were fixed only when respondent confirmed the importer's order to ship at a quantity and price specified by the importer and confirmed by the respondent. We have therefore converted the constructed value from lire to dollars, for each shipment, using the quarterly rate of exchange applicable on the date that each order to ship was confirmed.

The respondent claimed deductions from the constructed value for extraordinary repair cost and extraordinary production loss. These claims were due to equipment breakdown. Equipment failures are to be expected in any production process and unless they are demonstrated to be unusual and extraordinary we will not permit an allocation to longer time periods or different production runs. Respondent has not provided us with evidence that the equipment failure was unusual and extraordinary. Consequently we have not allowed this claim.

The constructed value calculation includes a deduction from raw material costs for the value of a by-product generated in the production process. Counsel for the petitioner has maintained that this value must be based on actual sales and not be an imputed value. During verification, we obtained sufficient documentation to ensure that the by-product value was based on actual sales and that all production and sales related costs were deducted.

Counsel for the petitioner argues that all costs incurred by the parent firm in support of respondent's production and sales of strontium nitrate should be included in the constructed value calculation. The respondent has explained that the parent firm incurs costs attributable to auditing and financial planning as well as those attributable to the services of directors of the parent firm who are also directors of SABED. The respondent also claims that payment for these costs are made by SABED and are part of the "Selling and General Administration" ("SGA") costs of SABED. Counsel for the respondent, however, has not been able to provide sufficient documentation to prove that the amounts for auditing and financial planning as well as for services of the directors have been included in the total SGA calculation. Therefore, we assured inclusion of these amounts by using a factor based upon sales of the parent company and sales of the merchandise in question.

In making this determination we also have focused upon questions concerning the calculation of profit for purposes of constructed value. In a prior case (*Electric Motors from Japan*, 45 FR 73723), we determined that the profit element of constructed value, as defined in section 773(e) of the Act, should be determined based upon sales of comparable merchandise to the United States by the individual producer under investigation. Consistent with that interpretation, we investigated SABED's profits on its sales to the United States during the investigation. Since the profit on these sales was less than the statutorily required minimum profit factor of eight percent, eight percent was added as the profit factor in calculating constructed values. However, we have reviewed our interpretation of section 773(e) as announced in *Electric Motors from Japan* and followed here, and we have concluded that that interpretation

is incorrect. The calculation of profit based on sales to the United States appears to be inconsistent with the meaning and intent of the statute, which, as enacted in 1979, brings constructed value within the definition of "foreign market value." In order to calculate profit for purposes of constructed value in future cases we will look to:

(1) profits on home market sales of comparable merchandise by the individual producer under investigation;

(2) profits on third country sales of comparable merchandise by the individual producer under investigation, to the extent such information is readily available; or, if not,

(3) profits on home market sales of comparable merchandise by the industry.

Verification

In making our final determination, in accordance with section 776 of the Act, we have verified all the information we relied upon, using the corporate books and records of the Italian company involved, SABED of Massa, Italy.

Final Determination

Based on the preceding criteria, and in accordance with § 353.44 of the Commerce Regulations, we have determined that exports of strontium nitrate from Italy are being sold at less than fair value within the meaning of section 731 of the Act. Margins were found on 38 percent of the merchandise sold to unrelated U.S. purchasers during the period, and they ranged from 0 to 6.6 percent. The weighted average margin over all sales was 2.6 percent. We have provided interested parties with an opportunity to present oral views in accordance with 19 CFR 353.47 and written views in accordance with 19 CFR 353.46(a).

Continuation of Suspension of Liquidation

The liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended. The Customs Service will require posting of a cash deposit, bond, or other security in the amount of 2.6 percent of the f.o.b. ex-factory value of strontium nitrate from Italy for all entries, or withdrawals from warehouse, for consumption on or after the date of publication of this notice. The cash deposits, bonds or other security on merchandise entered since the preliminary determination will remain in effect.

ITC Notification

We have referred this case to the ITC so that it may determine whether these imports are materially injuring a U.S. industry. That determination is due within 45 days of the publication of this notice.

As section 735(c)(1)(A) of the Act requires, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC rules that material injury does not exist, this case will be terminated, and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC rules that such injury does exist, within seven days we will issue an antidumping duty order, directing customs officers to assess an antidumping duty on all strontium nitrate from Italy, entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, which was sold at less than the foreign market value.

John D. Greenwald,

Acting Assistant Secretary for Trade Administration.

May 1, 1981.

[FR Doc. 81-13687 Filed 5-6-81; 8:45 am]

BILLING CODE 3510-25-M

Cadmium From Japan; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination to Revoke.

SUMMARY: As a result of an administrative review of the antidumping finding on cadmium from Japan, the Department of Commerce has tentatively determined to revoke the finding. The review covers the seven known exporters of this merchandise to the United States and the period April 1, 1978 through September 4, 1979. There were no known shipments to the United States during this period and there are no known unliquidated entries. Prior Treasury Department review indicates no shipments to the U.S. since May, 1974. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 7, 1981.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3814).

SUPPLEMENTARY INFORMATION:

Procedural Background

On August 4, 1972, a dumping finding with respect to cadmium from Japan was published in the **Federal Register** as Treasury Decision 72-206 (37 FR 15700. A "Tentative Determination to Modify or Revoke Dumping Finding" with respect to this merchandise was published by the Department of the Treasury in the **Federal Register** on September 4, 1979 (44 FR 51696). Reasons for the tentative revocation were given in the notice and interested parties were given an opportunity to present written or oral views. No comments were received. However, Treasury took no final action on the proposed revocation.

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 ("the 1921 Act") with a new title VII to the Tariff Act of 1930 ("the Tariff Act"). On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of March 28, 1980 (45 FR 20511-20512) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the finding on cadmium from Japan.

Scope of the Review

Imports covered by this review are shipments of cadmium from Japan. Cadmium is a silver-white metal which is relatively rare and found in small amounts in zinc ores. It is currently classifiable under items 632.1420 and 632.1440 of the Tariff Schedules of the United States Annotated (TSUSA).

There are seven known exporters of this merchandise:

Dowa Mining Company Ltd.
Mitsubishi Metal Corp.
Mitsui Mining and Smelting Co. Ltd.
Nippon Mining Co. Ltd.
Nisso Smelting Co. Ltd.
Sumitomo Metal Mining Co., Ltd.
Toho Zinc Co., Ltd.

This review covers the period April 1, 1978, through September 4, 1979, the date that the tentative revocation was

published by the Treasury Department. The Treasury Department previously reviewed all earlier periods covered by the finding.

Preliminary Results of the Review

There were no shipments of Japanese cadmium to the U.S. during the period and there are no known unliquidated entries. In addition, prior treasury Department review indicated that there were no shipments since may, 1974, for a combined period of approximately 5½ years.

As provided for in § 353.54(e) of the Commerce Regulations, the seven exporters have agreed in writing to an immediate suspension of liquidation and reinstatement of the findng if circumstances develop which indicate that cadmium thereafter imported into the United States is being sold at less than fair value.

Tentative Determination

As a result of our review we tentatively determine to revoke the finding on cadmium from Japan. Interested parties may submit written comments on or before June 8, 1981 and may request disclosure and/or a hearing May 26, 1981.

The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review, tentative determination to revoke, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and § 353.54(e) of the Commerce Regulations (19 CFR 353.54(e)).

John D. Greewald,

Deputy Assistant Secretary for Import Administration.

May 4, 1981.

[FR Doc. 81-13846 Filed 5-6-81; 8:45 am]

BILLING CODE 3510-25-M

Carbon Steel Plate From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on carbon steel plate from Japan. The review covers the 6 known manufacturers of this merchandise and consecutive periods from July 1, 1977 through March 31, 1980. This review indicates the existence of dumping margins in particular periods for certain firms.

As a result of the review the Department has preliminarily determined to assess dumping duties for individual firms equal to the calculated differences between United States price and foreign market value on each of their shipments during the period of review. Where company-supplied information was inadequate or no information was received, the Department has used the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 7, 1981.

FOR FURTHER INFORMATION CONTACT: John Nolan, Alfredo Montemayor, or William L. Matthews, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4347).

SUPPLEMENTARY INFORMATION:

Procedural Background

On May 30, 1978, a dumping finding with respect to carbon steel plate from Japan was published in the **Federal Register** as Treasury Decision 78-150 (43 FR 22937). On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 ("the 1921 Act") with a new title VII to the Tariff Act of 1930 ("the Tariff Act"). On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of March 28, 1980 (45 FR 20511-20512) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the finding on carbon steel plate from Japan. The substantive provisions of the 1921 Act and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by this review are shipments of hot rolled carbon steel plate, 0.1875 inches or more in thickness, over 8 inches in width, not in coils, not pickled, not coated or plated with metal, not clad, and not cut, pressed or stamped to non-rectangular shape, currently classifiable under item 607.6615 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of a total of 6 Japanese firms engaged in the manufacture of carbon steel plate. This review covers all six for consecutive time periods from July 1, 1977 through March 31, 1980. This includes all unliquidated entries made since the date of suspension of liquidation.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act or section 203 of the 1921 Act, as appropriate. Purchase price was based on the FOB or FAS Japanese port price to an unrelated Japanese trading company for export to the United States. Where applicable, deductions were made for Japanese inland freight, loading charges, and insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act or section 205 of the 1921 Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. For all six firms home market sales constitute at least 40 percent of the total sales and more than 80 percent of sales for export to countries other than the United States during the periods covered. The foreign market values were adjusted, where applicable, for inland freight and insurance. Adjustments were also made, where applicable, for differences in credit costs, packing, post-sale price adjustments, warranties, and differences in the merchandise, in accordance with §§ 353.15 and 353.19 of the Commerce Regulations and §§ 153.10 and 153.15 of the Customs Regulations. Certain claims by one manufacturer for differences in the merchandise due to varying yield ratios and productivity levels were disallowed due to insufficient supporting evidence. No other adjustments were claimed or allowed.

The Department also investigated allegations of sales below the cost of production. Where sales in the home market were made at prices which did not permit recovery of all costs within a reasonable period of time, the Department excluded these sales from its analysis. Since the producers either declined to furnish actual costs of production or did not allow verification of such data, the Department used data developed in its Trigger Price Mechanism (TPM), with adjustments for each manufacturer based on the best

evidence of differences in cost of production.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer	Time period	Margin (per cent)
Nippon Steel	7-77—6-78	0
Do	7-78—3-80	*0
Nipon Kokan	7-77—6-78	3.95
Do	7-78—3-80	*3.95
Kawasaki	7-77—6-78	0
Do	7-78—3-80	*0
Kobe Steel Ltd	7-77—6-78	0
Do	7-78—3-80	0
Sumitomo Metals	7-77—6-78	2.64
Do	7-78—3-80	*2.64
Kansai, Ltd	7-77—3-78	7.90
Do	4-78—3-80	6.51

*No shipments during the period.

Interested parties may submit written comments on these preliminary results on or before June 8, 1981, and may request disclosure and/or a hearing on or before May 22, 1981. Any request for an administrative protective order must be no later than May 12, 1981. The Department will publish the final results of the administrative review including its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all entries made with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as required by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments of carbon steel plate entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

May 4, 1981.

[FR Doc. 81-13764 Filed 5-6-81; 8:45 am]

BILLING CODE 3510-25-M

Portland Cement, Other Than White, Nonstaining Portland Cement, From the Dominican Republic; Final Results of Administrative Review of Antidumping Finding

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On November 24, 1980, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on portland cement, other than white, nonstaining portland cement, from the Dominican Republic. The scope of the review was limited to the only known exporter, Fabrica Dominicana de Cemento, C por A, and to the period December 4, 1969 through May 31, 1980.

Interested parties were given an opportunity to submit oral or written comments on this preliminary determination. Based on information furnished by the exporter, the Department has calculated a new weighted-average margin.

EFFECTIVE DATE: May 7, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis U. Askey, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4793).

SUPPLEMENTARY INFORMATION:

Background

On May 4, 1963, a dumping finding with respect to portland cement, other than white, nonstaining portland cement, from the Dominican Republic was published in the **Federal Register** as Treasury Decision 5883 (28 FR 4507-08). On November 24, 1980, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (45 FR 77502-3). The Department has now completed its administrative review of that antidumping finding.

Scope of the Review

Imports covered by this review are shipments of portland cement, other than white, non-staining portland cement. It is classifiable under items 511.1420 and 511.1440 of the Tariff Schedules of the United States Annotated (TSUSA).

The department knows of only one exporter of portland cement, other than white, nonstaining portland cement, from the Dominican Republic to the United States. That firm is Fabrica Dominicana de Cemento, C por A.

The review covered all time periods, that is, from December 4, 1969 through May 31, 1980, during which shipments by Fabrica Dominicana de Cemento, C por A, may have been made to the United States and for which appraisement instructions ("master lists") have not been issued. The Department stated in its notice of preliminary results that the exporter had not responded to its questionnaires. That statement was in error, as the Department has since located a response in U.S. Customs Service files. Based on that response the Department has recalculated the margin.

In its recalculation, the Department compared purchase price to foreign market value, as defined in sections 203 and 205 of the Antidumping Act of 1921, based on the ex-factory price to unrelated purchasers in the U.S. and in the Dominican Republic, respectively, with an adjustment to foreign market value for a difference in packing costs. No other adjustments were claimed or made.

Final results of the Review

As a result of our comparison of purchase price to foreign market value, we determine that the following weighted-average margin exists:

Period	Margin (pct)
December 4, 1969—May 31, 1980	10.33

The Department shall determine, and the U.S. Customs Service shall assess, duties on all entries with purchase dates during this period. Individual differences between purchase price and foreign market value may vary from the above percentage. The Department will issue appraisement instructions separately to the Customs Service.

Further, as required by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the margin calculated above, that is, 10.33 percent of the entered value, shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. This latter requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of May 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C.

1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53)

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

May 4, 1981.

[FR Doc. 81-13845 Filed 5-6-81; 8:45 am]

BILLING CODE 3510-25-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, DC 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). Request 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, DC 20310

Patent application 6,140,646: A Flowing Gas Discharge Source of Vacuum Ultraviolet Line Radiation System; filed Apr. 16, 1980.

Patent application 6,186,109: Phase Sensor for R.F. Transmission Lines; filed Sept. 11, 1980.

Patent application 6,205,361: Line Source Antenna for Electronic Beam Scanning; filed Nov. 10, 1980.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, DC 20324.

Patent application 6,192,406: Dynamic Damping System; filed Sept. 30, 1980.

Patent application 6,193,048: Method and Apparatus for Measuring Hand-eye Coordination While Tracking a Changing Size Image; filed Oct. 2, 1980.

Patent application 6,195,147: Atmospheric Dispersion Corrector; filed Oct. 8, 1980.

Patent application 6,195,693: Flat Workpiece Pickup; filed Oct. 9, 1980.

Patent 4,238,197: Analysis of Lubricating Oils for Iron Content; filed Apr. 12, 1979, patented Dec. 9, 1980; not available NTIS.

Patent 4,238,602: Fluorine Containing Polyethers; filed Apr. 26, 1979, patented Dec. 9, 1980; not available NTIS.

Patent 4,238,716: Miniature Vehicle Dispenser Spin-up Speed Control System; filed Sept. 27, 1978, patented Dec. 9, 1980; not available NTIS.

Patent 4,238,747: Mode Filtering Apparatus; filed Aug. 10, 1979, patented Dec. 9, 1980; not available NTIS.

Patent 4,238,772: Image Enhancement Using On-Line Spatial Filtering; filed Dec. 9, 1980; not available NTIS.

Patent 4,238,827: Interferogram Synthesization Method and Apparatus; filed Nov. 20, 1978, patented Dec. 9, 1980; not available NTIS.

Patent 4,239,053: Fuel Flow Distribution System; filed Feb. 7, 1979, patented Dec. 16, 1980; not available NTIS.

Patent 4,239,392: Grating Output Wavefront Sampling System; filed July 7, 1978, patented Dec. 16, 1980; not available NTIS.

Patent 4,241,223: F-Phenylalkylene Oxide Diacetylenes; filed Aug. 28, 1979, patented Dec. 23, 1980; not available NTIS.

Patent 4,242,179: Method of Fabricating Cadmium Electrodes; filed July 27, 1979, patented Dec. 30, 1980; not available NTIS.

U.S. Department of Agriculture, Program Agreements and Patent Branch, Administration Service Division Federal Building, Science and Education Administration, Hyattsville, MD 20782

Patent application 6,210,460: Carriage for Cable Logging System; filed Nov. 25, 1980.

Patent application 6,219,569: Apparatus, Treatment of Fibers with Ozone-Steam Mixtures; filed Dec. 22, 1980.

Patent 4,239,701: Ternary Salts of Tris(Aminomethyl)-Phosphines and Their Oxides; filed July 26, 1979, patented Dec. 16, 1980; not available NTIS.

Patent 4,245,494: Inlet System for Direct Gas Chromatographic and Combined Gas Chromatographic Mass Spectrometric Analysis of Food Volatiles; filed Feb. 26, 1979, patented Jan. 20, 1981; not available NTIS.

Patent 4,246,031: Prepolymer Preparation and Polymerization of Flame Retardant Chemicals from THP-Salts; filed Oct. 11, 1978, patented Jan. 20, 1981; not available NTIS.

Patent 4,246,310: High Performance, Lightweight Structual Particleboard; filed Apr. 6, 1979, patented Jan. 20, 1981; not available NTIS.

Patent 4,249,017: Tris(N-Carbalkoxylaminomethyl)-Phosphine Oxides and Sulfides; filed Nov. 29, 1978, patented Feb. 3, 1981; not available NTIS.

U.S. Department of Health and Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205

Patent application 6,210,044: Acoustically Transparent Hydrophone Probe; filed Nov. 24, 1980.

Patent application 6,221,565: Recombinant DNA Process and Product Utilizing a Papilloma Virus DNA as a Vector; filed Dec. 31, 1980.

Patent application 6,240,577: Silver Stains for Protein in Gels; filed Mar. 4, 1981.

Patent 4,247,780: Feedback Controlled Geometry Registration System for Radiographs; filed June 8, 1979, patented Jan. 27, 1981; not available NTIS.

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 6,090,205: Arrestment System; filed Nov. 1, 1980.

Patent Application 6,189,401: A Method and Apparatus for Measuring Optical Coupling Coefficients; filed Sept. 1980.

Patent Application 6,199,895: Laser Bottlenecking Technique; filed Oct. 23, 1980.

Patent Application 6,203,003: Light Burst Activity Analyzer; filed Nov. 3, 1980.

Patent Application 6,203,197: Balanced Impedance Coupler; filed Nov. 4, 1980.

Patent Application 6,206,130: Multi-Sampling-Channel Pulse Compressor; filed Nov. 6, 1980.

Patent Application 6,206,404: Method for Cation Production; filed Nov. 13,1980.

Patent Application 6,208,355: Multiple-Microcomputer Processing; filed Nov. 19, 1980.

Patent Application 6,208,757: Recoil Force and Weight Loss Simulation Device; filed Nov. 20, 1980.

Patent Application 6, 210,114: Pressure Formed Fiber Optic Connector; filed Nov. 24, 1980.

Patent Application 6,210,981: Improved Method of Preparing N, N-Bis (2-Fluoro-2,2-Dinitroethyl) Carbamyl Chloride and Its Derivatives; filed Nov. 28, 1980.

Patent Application 6,213,529: High Speed Digital to Analog Converter Circuit; filed Dec. 5, 1980.

Patent Application 6,215,213: Rotating Shutter System for Improving the Resolution of a Visual Display System; filed Dec. 11, 1980.

Patent 4,230,995: Electrically Excited Mercury Halide Laser; filed Oct. 24, 1978, patented Oct. 28, 1980; not available NTIS.

Patent 4,231,058: Tungsten-Titanium-Chromium/-Gold Semiconductor Metallization; filed Nov. 22, 1978, patented Oct. 28, 1980; not available NTIS.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA CODE GP-4, Washington, DC 20546

Patent 4,209,561: Structural Wood Panels with Improved Fire Resistance; filed July 28, 1978, patented June 24, 1980; not available NTIS.

Patent 4,212,297: Micro-Fluid Exchange Coupling Appraratus; filed Oct. 16, 1978, patented July 15, 1980; not available NTIS.
Patent 4,218,685: Coaxial Phased Array Antenna; filed Oct. 17, 1978, patented Aug. 19, 1980; not available NTIS.
Patent 4,218,892: Low Cost Cryostat; filed Mar. 29, 1979, patented Aug. 26, 1980; not available NTIS.
Patent 4,218,941: Method and Tool for Machining a Transverse Slot About a Bore; filed Oct. 17, 1978, patented Aug. 26, 1980; not available NTIS.
Patent 4,219,027: Subcutaneous Electrode Structure; filed Jan. 16, 1979, patented Aug. 26, 1980; not available NTIS.
Patent 4,219,084: Fire Extinguishing Apparatus Having a Slidable Mass for a Penetrator Nozzle; filed Apr. 19, 1978, patented Aug. 26, 1980; not available NTIS.
Patent 4,219,926: Method and Apparatus for Fabricating Improved Solar Cell Modules; filed Feb. 23, 1979, patented Sept. 2, 1980; not available NTIS.
Patent 4,222,098: Base Drive for Paralleled Inverter Systems; filed Feb. 16, 1978, patented Sept. 9, 1980; not available NTIS.
Patent 4,225,372: Surface Finishing; filed Jan. 23, 1979, patented Sept. 30, 1980; not available NTIS.
Patent 4,228,422: System for a Displaying at a Remote Station Data Generated at a Central Station and for Powering the Remote Station from the Central Station; filed Nov. 30, 1978, patented Oct. 14, 1980; not available NTIS.
Patent 4,228,656: Power Control for Hot Gas Engines; filed May 19, 1978, patented Oct. 21, 1980; not available NTIS.
Patent 4,229,196: Atomic Hydrogen Storage Method and Apparatus; filed Feb. 6, 1979, patented Oct. 21, 1980; not available NTIS.
Patent 4,229,473: Partial Interlaminar Separation System for Composites; filed Mar. 24, 1978, patented Oct. 21, 1980; not available NTIS.
Patent 4,230,717: Indometh Acin-Antihistamine Combination for Gastric Ulceration Control; filed Dec. 29, 1978, patented Oct. 28, 1980; not available NTIS.
Patent 4,233,606: Frequency Translating Phase Conjugation Circuit for Active Retrodirective Antenna Array; filed Dec. 29, 1978; patented Nov. 11, 1980; not available NTIS.
Patent 4,234,971: Precise RF Timing Signal Distribution to Remote Station; filed Sept. 24, 1979, patented Nov. 18, 1980; not available NTIS.
Patent 4,235,060: Installing Fiber Insulation; filed Dec. 15, 1978, patented Nov. 25, 1980; not available NTIS.

[FR Doc. 81-13681 Filed 5-6-81; 8:45 am]
BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISSION

New York Mercantile Exchange: Proposed Position Limits Program in the Round White Potato Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rules.

SUMMARY: The New York Mercantile Exchange ("NYME") has submitted a proposal to provide a position limits program in the Round White Potato Futures contract. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposed of the Commodity Exchange Act.

DATE: Comments must be received on or before July 6, 1981.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Reference should be made to NYME Potato Position Limits Program.

FOR FURTHER INFORMATION CONTACT: Lawrence Dolins, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254-8955; or Blake Imel, Division of Economics and Education, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254-3203.

SUPPLEMENTARY INFORMATION: The NYME is proposing a position limits program in its Round White Potato futures contract ("contract") stipulating diverse position limits for the contract months of February, March, April and November. The proposal also would eliminate price limits during the last six trading days of the spot month, thereby providing traders with an increased opportunity to liquidate positions in conformity with the speculative limits specified within the contract. This proposal is intended to further orderly liquidations of the contract while minimizing the inconvenience and restraint on bona fide hedge and speculative activity. The Exchange has stated that the proposed amendments concerning position and price fluctuation limits will be made effective following notice of approval by the Commission and will apply to any contracts open to trading at that time.

The Commission, in accordance with section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12) (Supp. III 1979), has determined that the proposals submitted by the NYME concerning its Round White Potato futures contract are of major economic significance. The NYME's proposed new rule 60.17 and Hedge Notice Form are printed below:

Proposed Rule for Potato Contract on Position Limits

60.17 Position Limits

(1) Limitations: No person may hold or control contracts at any time, net long or short, in excess of the number set forth below:

(a) November futures: 300 contracts.

(b) February, March and April futures: 150 contracts for any of said months except that for the last 5 days of trading of any of said months, the limit shall be 100 contracts.

(c) All futures combined: 350 contracts.

(2) Aggregation of Positions: Positions directly or indirectly held or controlled by a person and positions held or controlled by two or more persons acting pursuant to an express or implied agreement or understanding shall be aggregated in determining complicance with this Rules.

(3) Clearing Members: A Clearing Member shall not maintain or carry a customer's account which by itself of in aggregation with any other accounts of the holder exceeds the foregoing position limits.

(4) Hedge Notice: The foregoing position limits shall not apply to positions held as bona fide hedging positions which meet the following requirements:

(a) All persons exceeding the foregoing position limits must submit to the Exchange a Hedge Notice, in the form prescribed by the Exchange, within 48 hours after exceeding such limits for the first time in each crop year.

(b) The hedge positions must be bona fide hedges as defined in CFTC Regulating Section 1.3(z)(2), or other transactions or positions which are approved by the CFTC under regulations Section 1.3(z)(3).

(c) During the last five days of trading in the February, March and April delivery months, positions used to hedge potatoes which are not specified as deliverable under the terms of the contract shall not be considered bona fide hedging positions under this subsection (4).

(5) Forms:

(a) All persons required under CFTC regulations to file Form 601 for Potatoes must file copies of such Form with the Exchange between January 15 and April 1, at the same time they are required to be filed with the CFTC under the applicable CFTC Regulations.

(b) All persons required under CFTC regulations to file Form 604 and holding

positions exceeding those set forth in subsection (1) of this Rule must file copies of such form with the Exchange. These copies must be filed with the Exchange at the same time the form is required to be filed with the CFTC under applicable CFTC Regulations. These copies need not contain such person's CFTC code number, but must contain either the person's name or a code number on file with the Exchange.

(6) Reduction or Elimination of Positions Over the Position Limits: Whenever the President is his discretion determines that positions exceeding the limits are not bona fide hedging positions, be may, upon notification, order the reduction or elimination of such positions held by any persons or all persons for such period of time as he may determine.

(7) Appeal: Action of the President may be appealed to the Control Committee and thereafter to the Board of Governors. On such appeal, the respective body may affirm, rescind or modify the order or grant such other relief as in its discretion may be warranted.

NEW YORK MERCANTILE EXCHANGE—POTATO CONTRACT, NOVEMBER, FEBRUARY, MARCH, AND APRIL FUTURES—HEDGE NOTICE

The undersigned hereby furnishes notice that he holds or controls contracts in excess of the Exchange's position limits for the November, February, March and April Potato Futures, in accordance with Exchange Rule 60.17.

1. Name of Applicant:———
Phone: ( ) ———
Address: ———
City: ——— State: —— Zip Code: ——
3. Principal Business (check one) — Grower; — Dealer; — Processor; — Other (describe):

4. Officers, employees or managing agents responsible for futures trading:

5. Principal Owners of applicant:

6. Do any of the principal owners control or have financial interest in any other potato commodity account(s)? —— If yes, please provide the name of the account, account number, account executive, type of control or percentage of financial interest, and the FCM or Clearing Member where the accounts are maintained.

7. Clearing members where hedge accounts will be maintained:
Name: ——— Account
Executive: —— Account No. ——
Name: ——— Account
Executive: —— Account No. ——
Name: ——— Account
Executive: —— Account No. ——
8(a) Total number of positions held or controlled:

	Short	Long
November		
February		
March		
April		

(b) If short against production or stocks, what variety? ——; located in what state? ——
(c) If long and have a fixed price commitment specifying a variety, what variety is specified?

The applicant hereby affirms:

That the foregoing contracts are bona fide hedges, as defined in CFTC Reg. Section 1.3(z) which are necessary or advisable as an integral part of his business.

That he will inform the New York Mercantile Exchange of any changes in the information provided in answer to questions two (2) through seven (7) of this Notice within 48 hours of any such change.

That he has complied with all federal requirements relating to hedging and has received approval for this purpose from the CFTC where necessary.

That he will furnish to the Exchange such information as requested relating to contracts held or controlled.

That he will comply with whatever limitations are imposed by the Exchange with relation to said hedges.

That he will not make use of his hedge exemption to violate or avoid Exchange rules, manipulate any market, or otherwise impair the dignity or good name of the Exchange.

This notice is subject to the by-laws, rules and resolutions of the Exchange.

Date ———
Applicant ———
Signature ———
Please Print Name ———
Title ———

The NYME's proposed amendment to rule 60.05(F) is printed below, using arrows to indicate additions and brackets to indicate deletions:

Proposer Amendment to Rule 60.05(F)

(F) There shall be no maximum limit on price fluctuations [on] ►during◄ the last ►six (6)◄ trading day►s◄ established for the delivery month.

* * * * *

Other materials submitted by the NYME in support of its position limits program may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145, as amended at 45 FR 26953–4 (April 22, 1980)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters, in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed position limits program should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, by July 6, 1981. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on May 1, 1981.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 81-13686 Filed 5-6-81; 8:45 am]
BILLING CODE 6351-01-M

COUNCIL ON ENVIRONMENTAL QUALITY

Publication of Tenth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information only: Publication of tenth progress report on agency implementing procedures under the National Environmental Policy Act.

SUMMARY: In response to Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). 43 FR 55978–56007; 40 CFR 1500–08). Section 1507.3 of the regulations provides that each agency of the Federal government shall have adopted procedures to supplement the regulations by July 30, 1979. The Council has indicated to Federal agencies its intention to publish progress reports on agency efforts to develop implementing procedures under the NEPA regulations. The purpose of these progress reports, the tenth of which appears below, is to provide an update on where agencies stand in this process and to inform interested persons of when to expect the publication of proposed procedures for their review and comment.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006; 202–395–5750.

Tenth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

At the direction of Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). These regulations appear at Volume 43

of the **Federal Register**, pages 55978–56007 and in Volume 40 of the Code of Federal Regulations, Sections 1500–1508. Their purpose is to reduce paperwork and delay associated with the environmental review process and to foster environmental quality through better decisions under NEPA.

Section 1507.3 of the NEPA regulations provides that each agency of the Federal government shall adopt procedures to supplement the regulations. The purpose of agency "implementing procedures," as they are called, is to translate the broad standards of the Council's regulations into practical action in Federal planning and decisionmaking. Agency procedures will provide government personnel with additional, more specific direction for implementing the procedural provisions of NEPA, and will inform the public and State and local officials of how the NEPA regulations will be applied to individual Federal programs and activities.

In the course of developing implementing procedures, agencies are required to consult with the Council and to publish proposed procedures in the Federal Register for public review and comment. Proposed procedures must be revised as necessary to respond to the ideas and suggestions made during the comment period. Thereafter, agencies are required to submit the proposed final version of their procedures for 30 day review by the Council for conformity with the Act and the NEPA regulations. After making such changes as are indicated by the Council's review, agencies are required to promulgate their final procedures. Although CEQ's regulations required agencies to publish their procedures by July 30, 1979 a number of Federal agencies did not meet the deadline. We stress, however, that the CEQ regulations are in effect now and are binding on all agencies of the Federal government now, whether or not the agencies are on time or late with their own procedures.

The Council published its first progress report on agency implementation procedures on May 7, 1979, its second report on July 23, 1979, its third report on September 26, 1979, its fourth report on November 2, 1979, its fifth report on December 14, 1979, its sixth report on January 29, 1980, its seventh report on March 25, 1980, its eighth report on June 25, 1980 and its ninth report on November 21, 1980 (44 FR 26781–82; 44 FR 43037–38; 44 FR 55408–55410; 44 FR 63132–63133; 44 FR 72622–72623; 45 FR 6638–6640; 45 FR 19294; 45 FR 42786; 45 FR 77107). The tenth progress report appears below.

The Council hopes that concerned members of the public will review and comment upon agency procedures to insure that the reforms required by the Council's regulations are implemented. Agencies preparing implementing procedures are listed under one of the following four categories:

Category No. 1: Final Procedures Have Been Published

This category includes agencies whose final procedures have appeared in the **Federal Register**:

- Advisory Council on Historic Preservation, 45 FR 4353 (Jan. 22, 1980)
- Agency for International Development 45 FR 70239 (Oct. 23, 1980)
- Arms Control Disarmament Agency, 45 FR 84840 (Dec. 23, 1980)
- Central Intelligence Agency, 44 FR 45431 (Aug. 2, 1979)
- Consumer Product Safety Commission, 45 FR 69433 (Oct. 21, 1980)
- Department of Agriculture, 44 FR 44802 (July 30, 1979)
  - Animal and Plant Health Inspection Service, 44 FR 50381 (Aug. 28, 1979) [correction: 44 FR 51272 (Aug. 31, 1979)]
  - Forest Service, 44 FR 44718 (July 30, 1979)
  - Soil Conservation Service, 44 FR 50576 (Aug. 29, 1979)
  - Rural Electrification Administration, 45 FR 6592 (Jan. 29, 1980)
- Department of Commerce, 45 FR 47898 (July 17, 1980)
  - Economic Development Administration, 45 FR 63310 (Sept. 24, 1980), supplemented 45 FR 74902 (Nov. 13, 1980)
  - National Oceanic and Atmospheric Administration, 45 FR 49312 (July 24, 1980)
- Department of Defense, 44 FR 46841 (Aug. 9, 1979)
  - Army Corps of Engineers, 45 FR 56760 (Aug. 25, 1980)
  - Department of the Army, 45 FR 69215 (Oct. 20, 1980)
- Department of Energy, 45 FR 20694 (Mar. 28, 1980); Proposed amendments for categorical exclusions for Fuel Use Act, 45 FR 53199 (Aug. 11, 1980)
- Department of Housing and Urban Development (agency wide procedures), 44 FR 67906 (Nov. 27, 1979). CEQ approval letter of April 29, 1981 scheduled for publication in Tuesday, May 5, 1981 **Federal Register**. Title I Programs under Housing and Community Development Act, see Appendix I
- Department of the Interior (revised), 45 FR 27541 (April 23, 1980)
  - Bureau of Indian Affairs, 46 FR 7490 (Jan. 23, 1981)
  - Bureau of Mines, 45 FR 85528 (Dec. 29, 1980)
  - Bureau of Land Management, 46 FR 7492 (Jan. 23, 1981)
  - Fish and Wildlife Service, 45 FR 47941 (July 17, 1980)
  - Geological Survey, 46 FR 7485 (Jan. 23, 1981)
  - Heritage Conservation and Recreation Service, 45 FR 76801 (Nov. 20, 1980)
  - Lowell Historic Preservation Commission, 45 FR 86562 (Dec. 31, 1980)
  - National Park Service, 46 FR 1042 (Jan. 5, 1981)
  - Office of Surface Mining Reclamation and Control, 46 FR 7487 (Jan. 23, 1981)
  - Water and Power Resources Services, 45 FR 47944 (July 17, 1980)
- Department of Health and Human Services, 45 FR 76519 (Nov. 19, 1980)
- Department of Labor, 45 FR 51184 (Aug. 1, 1980)
- Department of Justice, 46 FR 7953 (Jan. 26, 1981)
  - Drug Enforcement Agency, 46 FR 7956 (Jan. 26, 1981)
  - Immigration and Naturalization Service, 46 FR 7957 (Jan. 26 1981)
  - Bureau of Prisons, 46 FR 7955 (Jan. 26, 1981)
  - Office of Justice, Assistance, Research and Statistics (formerly LEAA), 46 FR 7959 (Jan. 26 1981)
- Department of State, 45 FR 59553 (Sept. 10, 1980)
- Department of Transportation, 44 FR 56420 (Oct. 1, 1979)
  - Coast Guard, 45 FR 32816 (May 19, 1980)
  - Federal Aviation Administration, 45 FR 2244 (Jan. 10, 1980)
  - Federal Highway Administration, issued jointly with UMTA, 45 FR 71968 (Oct. 30, 1980)
  - Federal Railroad Administration, 45 FR 40854 (June 16, 1980)
  - Urban Mass Transportation Administration, issued jointly with FHWA, 45 FR 71968 (Oct, 1980)
- Department of the Treasury, 45 FR 1828 (Jan. 8, 1980)
- Environmental Protection Agency, 44 FR 64174 (Nov. 6, 1979)
- Export-Import Bank, 44 FR 50810 (Aug. 30, 1979)
- Farm Credit Administation, 45 FR 81733 (Dec. 12, 1980)
- Federal Emergency Management Agency, 45 FR 41141 (June 18, 1980); amendments for categorical exclusions, 46 FR 2049 (Jan. 8, 1981)
- Federal Maritime Commission, 45 FR 33996 (May 21, 1980)
- Federal Railroad Administration, 45 FR 40854 (June 16, 1980)

General Services Administration, 45 FR 83 (Jan. 2, 1980) Public Buildings Service (see 44 FR 65675, Nov. 14, 1979)
International Communications Agency, 44 FR 45489 (Aug. 2, 1979)
Interstate Commerce Commission, 45 FR 79810 (Dec. 2, 1980)
Marine Mammal Commission, 44 FR 52837 (Sept. 11, 1979)
National Aeronautics and Space Administration, 44 FR 44485 (July 30, 1979) [corrections: 44 FR 49650 (Aug. 24, 1979); 44 FR 69920 (Dec. 5, 1979)]
National Capitol Planning Commission, 44 FR 64923 (nov. 8, 1979)
National Science Foundation, 45 FR 39 (Jan. 2, 1980)
Overseas Private Investment Corporation, 44 FR 51385 (Aug. 31, 1979). [NEPA Procedures are contained in this agency's procedures implementing Executive Order 12114 above.]
Postal Service, 44 FR 63524 (Nov. 5, 1979)
Small Business Administration, 45 FR 7358 (Feb. 1, 1980)
Tennessee Valley Authority, 45 FR 54511 (Aug. 15, 1980)
Veteran's Administration, 45 FR 62800 (Sept. 22, 1980)
Water Resources Council, 44 FR 69921 (Dec. 5, 1979)

Category No. 2: Proposed Procedures Have Been Published

This category includes agencies whose proposed procedures have appeared in the **Federal Register:**

ACTION, 44 FR 60110 (Oct. 18, 1979)
Civil Aeronautics Board, 44 FR 45637 (Aug. 3, 1979). [reissuance of part: 45 FR 16132 (Mar. 12, 1980)]
Community Services Administration, 45 FR 85485 (Dec. 29, 1980)
Department of Agriculture Agencies
- Agriculture Stabilization and Conservation Service, 44 FR 44167 (July 27, 1979) [correction: 44 FR 45631 (Aug. 3, 1979)]; procedures published as final without CEQ approval, 45 FR 32312 (May 16, 1980)
- Food Safety and Quality Service, 45 FR 60460 (Sept. 12, 1980)
- Science and Education Administration, 45 FR 11147 (Feb. 20, 1980)
- Notice of proposed categorical exclusion of certain Department of Agriculture agency programs, 45 FR 38092 (June 6, 1980)

Department of Defense Agencies
- Department of the Air Force, 44 FR 44118 (July 26, 1979)

Federal Energy Regulatory Commission, 44 FR 50052 (Aug. 27, 1979)
Food and Drug Administration, 44 FR 71742 (Dec. 11, 1979)
Federal Communications Commission, 44 FR 38913 (July 3, 1979)
Federal Trade Commission, 44 FR 42712 (July 20, 1979)
International Boundary and Water Commission (U.S. Section), 44 FR 61665 (Oct. 26, 1979)
National Credit Union Administration, 45 FR 12211 (Feb. 25, 1980)
Nuclear Regulatory Commission, 45 FR 13739 (Mar. 3, 1980)
Pennsylvania Avenue Development Corporation, 44 FR 45925 (Aug. 6, 1979)
Saint Lawrence Seaway Development Corp., 45 FR 46601 (July 10, 1980)

Category #3: Proposed Procedures Have Not Been Published

This category includes agencies that have not published proposed procedures in the **Federal Register** as of March 31, 1981:

Defense Logistics Agency
Department of the Navy
Farmers Home Administration
Federal Reserve System
Appalachian Regional Commission
Federal Deposit Insurance Corporation
Federal Home Loan Bank Board
Federal Savings and Loan Insurance Corporation
METRO
National Highway Traffic Safety Administration
Securities and Exchange Commission

The development of agency implementing procedures is a critical stage in Federal efforts to reform the NEPA process. These procedures must, of course, be consistent with the Council's regulations and provide the means for reducing paperwork and delay and producing better decisions in agency planning and decisionmaking.

Interested persons will have the opportunity to make their suggestions for improving agency procedures when they are published in the **Federal Register** in proposed form. Broad public participation at this crucial juncture could go a long way toward ensuring that the goals of the NEPA regulations are widely implemented in the day-to-day activities of government.

Prior to promulgation of final proceudres, agencies are required to submit the proposed final version of their procedures to the Council for review. When the Council finds that an agency's procedures conform with NEPA and the NEPA regulations, the Council sends a letter of approval to the agency after which the agency may adopt and publish its procedures in final form.

The following is an example of the approval letter:

Honorable R. Max Peterson,
Chief, Forest Service, Department of Agriculture, Washington, D.C. 20250.

Dear Mr. Peterson: Section 1507.3 of the "Regulations for Implementing The Procedural Provisions of the National Environmental Policy Act," 40 CFR 1500, *et seq.* provides that each agency shall as necessary adopt procedures to supplement the regulations. Section 1507.3 also provides that final agency procedures shall be adopted only after review by the Council on Environmental Quality.

On June 12, 1979 your predecessor, Mr. John McGuire, transmitted for Council review final procedures developed by the Forest Service under Section 1507.3 of the NEPA regulations. These procedures were published in the **Federal Register** for public review and comment on April 29, 1979. The comment period on the procedures concluded May 31, 1979. The preamble to the procedures contains a point-by-point response to the major comments received on the procedures.

The Council has completed its review of the procedures developed by the Forest Service. Based on that review, the Council has determined that the procedures address all of the sections of the regulations required to be addressed by Section 1507.3(b) of the regulations. The procedures will take effect and supplement the NEPA regulations once they are published in final form in the **Federal Register.**

Yours truly,

Nicholas C. Yost,
General Counsel.

Disapproved

Department of Housing and Urban Development: proposed procedures implementing NEPA for the Urban Development Action Grant (UDAG) Program under Title I programs under Housing and Community Development Act

Approved

Advisory Council on Historic Preservation
Agency for International Development
Arms Control Disarmament Agency
Central Intelligence Agency
Consumer Product Safety Commission
Department of Agriculture
- Animal & Plant Health Inspection Service
- Forest Service
- Soil Conservation Service
- Rural Electrification Administration

Department of Commerce
- Economic Development Administration
- National Oceanic & Atmospheric Administration

Department of Defense
- Army Corps of Engineers
- Department of the Army

Department of Energy
Department of the Interior
- Bureau of Indian Affairs
- Bureau of Mines
- Bureau of Land Management
- Fish and Wildlife Service
- Geological Survey

Heritage Conservation and Recreation Service
Lowell Historic Preservation Commission
National Park Service
Office of Surface Mining Reclamation and Control
Water and Power Resources Service
Department of Health and Human Services
Department of Justice
Drug Enforcement Agency
Immigration and Naturalization Service
Bureau of Prisons
Office of Justice Assistance, Research and Statistics
Department of Labor
Department of State
Department of Transportation
Coast Guard
Federal Aviation Administration
Federal Highway Administration & Urban Mass Transit Administration
Federal Railroad Administration
Department of the Treasury
Environmental Protection Agency
Export-Import Bank
Farm Credit Administration
Federal Emergency Management Agency
Federal Maritime Commission
Federal Railroad Administration
General Services Administration
Public Buildings Service
International Communications Agency
Interstate Commerce Commission
Marine Mammal Commission
National Aeronautics & Space Administration
National Capitol Planning Commission
National Science Foundation
Overseas Private Investment Corporation
Postal Service
Small Business Administration
Tennessee Valley Authority
Veteran's Administration
Water Resources Council

Dated: April 27, 1981.

Nicholas C. Yost,

General Counsel.

[FR Doc. 81-13821 Filed 5-6-81; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers,

Department of the Army Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Harbor Facilities at Ninilchik, Alaska

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. Three alternatives are being studied in detail to provide additional small boat harbor facilities at Ninilchik, Alaska. These include a rubble mound breakwater offshore of the beach immediately south of Ninilchik River, a dredged half tide harbor protected by two rubble mound breakwaters south of Ninilchik River, and expansion of the existing harbor.

2. A scoping meeting is planned to identify the significant resources to be discussed within the DEIS. The date of this meeting has not been determined. Written comments will be requested from Federal, State, and local agencies as well as the general public.

The sites are located within the Clam Gulch State Critical Habitat Area. Significant issues to be discussed in the DEIS are impacts to mollusks, anadromous and resident fish, water dependent birds, marine mammals, littoral drift, water quality and socioeconomic factors.

3. Interested persons, agencies and organizations desiring to submit comments or suggestions for consideration in preparation of the DEIS are invited to do so. Upon completion of the DEIS, estimated to be early 1982, it will be available for public comment and review.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William D. Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Lee R. Nunn,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 81-13810 Filed 5-6-81; 8:45 am]

BILLING CODE 3710-NL-M

Intent To Prepare a Supplement to the Final Environmental Impact Statement (FEIS) for the Kaskaskia River Navigation Project, Illinois (Operation and Maintenance)

AGENCY: St. Louis District, Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Supplement to the Final Environmental Impact Statement (FEIS) for the Kaskaskia River Navigation Project, Illinois (Operation and Maintenance).

SUMMARY:

1. *Proposed Action:* The proposed action is to prepare a Supplement to the FEIS for the Kaskaskia River Navigation Project, Illinois (Operation and Maintenance) Study concerning construction of the remaining 0.9 mile of the canal from canal mile 28.7 to 29.6; redredging the canal from canal mile 29.6 to the head of navigation at Fayetteville, Illinois, mile 35.9; full coverage revetment of the canal banks from mile 28.7 to mile 35.9; and planning for future operation and maintanance disposal sites. Dredging activities are to be accomplished by hydraulic pipeline dredge, and dredge material is to be placed in existing placement sites and selected new sites. A cumulative impact analysis of the Kaskaskia River as a system may be considered and addressed within the Supplement to the FEIS, pending coordination with affected State and Federal agencies. The project area is located in St. Clair County, Illinois.

2. *Alternatives:* The alternatives will include selection of dredge material placement sites, choice of land use determination for filled disposal sites, and no action.

3. *Scoping Processs:*

a. *Public Involvement:* The FEIS was released in July 1974 after coordination with Federal, State and local agencies and other interested private organizations and parties.

We are inviting the participation of affected Federal, State and local agencies and other interested organizations and individuals. The scoping process, as outlined by the Council of Environmental Quality (29 November 1978), will begin at a meeting in May 1981, and will be incorporated in the existing planning process.

b. *Significant Issues:* Significant issues addressed in the Supplement to the FEIS will include dredging, revetment, placement of dredge material, and an analysis of the impact on the environment regarding the proposed action and the economically justified alternatives.

c. *Lead Agency and Cooperating Agency Responsibilities:* The St. Louis District, Army Corps of Engineers, is the lead agency responsible for the preparation of the supplement to the FEIS. The Illinois Department of Transportation, the Illinois Department of Conservation, the U.S. Fish and Wildlife Service, and the Kaskaskia Regional Port District will furnish input for the supplement and be invited to participate as cooperating agencies.

d. *Environmental Review and Consultation Requirements:* The completed Supplement to the FEIS will be made available to appropriate Federal, State, and local agencies, and other interested individuals. The Supplement to the FEIS will contain records of compliance with designated consultation requirements found applicable during the course of this study.

4. *Scoping Meeting:* The scoping process will be initiated in May 1981 at a formal coordination meeting with the Illinois Department of Transportation (State sponsor), and interested Federal, State, and local agencies. The scoping process will continue, as additional

scoping meetings will be scheduled throughout the duration of the study.

5. *Supplement to FEIS Preparation:* The Supplement to the FEIS is scheduled to be completed in the first quarter of 1983.

ADDRESS: Questions concerning the proposed action and the Supplement to the FEIS can be answered by: William L. Rogers, Kaskaskia Navigation Project Manager (ED–PK), U.S. Army Engineer District, St. Louis, 210 Tucker Blvd., North, St. Louis, Missouri 63101.

Dated: April 29, 1981.

Robert J. Dacey,

Colonel, CE, District Engineer.

[FR Doc. 81–13806 Filed 5–6–81; 8:45 am]

BILLING CODE 3710–GS–M

Department of the Army

Draft Environmental Impact Statement (DEIS); Proposed Modification to the Francis E. Walter Dam and Reservoir at the Confluence of the Lehigh River and Bear Creek in Luzerne County, Pa.

AGENCY: U.S. Army Corps of Engineers (Lead Agency), Philadelphia District.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: (1) The existing single purpose project is contained in about 2,880 acres and has a 234 foot-high dam which provides flood control and 80-acres conservation pool. One form of the proposed modification would raise the dam about 29-feet to add about 69,500 acre-feet of water (23 billion gallons) for water supply purposes and provide a 1,300 acre recreation pool. An additional 3,250 acres of land will be required for operation and recreation purposes of this multi-purpose project.

(2) Phase I Advanced Engineering and Design studies will be initiated in fiscal year 1981 to result in a Phase I General Design Memorandum which includes the DEIS. Alternatives to be considered in the DEIS include (1) structural options, (2) variations in the available recreation facilities, (3) maintaining the existing project (no action), and (4) various non-structural solutions.

(3) A plan of study, which will define the scope of the Phase I AE & D study, is underway. The scoping process will presently supplement that effort and will be continued through each iteration of the analysis. Participating agencies presently include the U.S. Fish and Wildlife Service, the Environmental Protection Agency (Region III), the Pennsylvania Department of Environmental Resources, the Pennsylvania Fish Commission, the Pennsylvania Game Commission, the Delaware River Basin Commission, County officials, and local and regional service and environmental groups. The appropriate Congressmen and State legislators will be apprised of these actions along with real estate interests who may be affected.

In addition, a mailing list of local, regional, and Federal agencies and individuals will utilized to ensure appropriate participation in and review of this project. The DEIS, upon completion, will be circulated to all the above mentioned individuals and organizations.

Significant environmental matters in the study include socio-economic concerns, conservation of fish and wildlife habitat, multi-purpose land use considerations and maintenance of water quality within and downstream of the project. The DEIS scope will consider public concerns with respect to the project as identified during the conduct of the Level B study by the Delaware River Basin Commission.

The Corps' environmental document will also include consideration of Section 404 (Pub. L. 92–500) factors, and cultural resources. No additional environmental review and consultation requirements are anticipated at this time.

(4) No scoping meeting has been scheduled. It is anticipated that inter-agency and public contacts will be maintained throughout the study course and as the DEIS is developed.

(5) It is anticipated that the DEIS will be available for public comment in late 1983.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Dr. John A. Burnes, Chief, Environmental Resources Branch, U.S. Army Corps of Engineers, Philadelphia District, Custom House, 2d & Chestnut Streets, Philadelphia, PA 19106; Telephone: (215) 597–4833.

Dated: April 29, 1981.

John A. Burnes,

Chief, Environmental Resources Branch.

[FR Doc. 81–13682 Filed 5–6–81; 8:45 am]

BILLING CODE 1710–GR–M

Environmental Impact Statement; Alaska

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent to prepare a draft environmental impact.

SUMMARY: 1. Three alternatives are being considered in detail to provide new harbour facilties at Dillingham, Alaska. These include use of an offshore floating breakwater (Site 1), expansion of the existing harbor (Site 2), and construction of a new harbor near the mouth of Squaw Creek (Site 3) west of Dillingham. Details of each of these alternatives are being developed and will be made available to interested parties.

2. A scoping meeting is not planned, although a public meeting has been held in Dillingham to gather preliminary information on the three alternatives. Written comments will be requested from Federal, State, and local agencies as well as the general public.

Significant issues to be discussd in the DEIS are the impacts on waterbirds and fish, sedimentation within the harbor, water quality and harbor flushing characteristics, wave action and socioeconomic factors.

3. Interested persons, agencies and organization desiring to submit comments or suggestions for consideration in connection with the Preparation of the DEIS are invited to do so. Upon completion of the DEIS, estimated to be early 1982, it will be available for public comment and review.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William D. Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

To Prepare a Draft Environmental Impact Statement (DEIS For a Proposed Small Boat Harbor at Dillingham, Alaska.

Lee R. Nunn,

Colonel, Corps of Engineers, District Engineer

[FR Doc. 81–13830 Filed 5–6–81; 8:45 am]

BILLING CODE 3710–NL–M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(a)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), notice is hereby provided of the following meetings:

I. A meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on May 12, 1981, at the offices of Petroleum Association of Japan, Keidanren Building, No. 9–4, 1-Chrome, Ohtemachi, Chiyoda-Ku, Tokyo, Japan, beginning at 9:30 a.m. The agenda for the meeting is as follows:

1. Impact of destination restrictions on the Emergency Sharing System.
2. Matters remaining from AST–3, including work necessary to simulate pricing effects in AST–4.
3. Aspects of pricing in a real emergency.
4. Non-crisis alternatives to Questionnaires A and B.
5. Buffer stocks needed to hold 90 days at all times.
6. Data questions, including:
A. New Questionnaire A formats;
B. Country-by-country data survey;
C. New crude oil data for ISOM list (Section SI.A);
D. Trade discrepancies;
E. New rolling four-quarter period to replace fixed BPFC;
F. Status of stocks at sea issue;
G. Insufficient data base for Emergency Sharing System.
7. Desirability of fine-tuning rules in Emergency Management Manual, including:
A. Establishment of priorities for allocation;
B. Start point of sharing after a trigger.
8. Review of proposed inclusion of petrochemical naptha in emergency reserves.
9. Principles of bunker demand restraint.
10. Training sessions:
A. Participation in training session on emergency system;
B. ISAG Seminar.
11. Future work program.

II. A meeting of Subcommittee C of the IAB to the IEA will be held on May 13, 1981, at the offices of Petroleum Association of Japan, Keidanren Building, No. 9–4, 1-Chome, Ohtemachi, Chiyoda-ku, Tokyo, Japan, beiginning at 9:30 a.m. The agenda for the meeting is as follows:

1. IEA Dispute Settlement Centre, including the draft Procedures for Arbitration and report on SEQ's DSC Working Group meeting on April 6.
2. Legal clearances for a real emergency:
A. Under Treaty of Rome;
B. Under U.S. and any other national legislation.
3. Legal questions arising out of conclusions and decisions of the Governing Board's March 31 meeting and results of its high level *Ad Hoc* Group.
A. Under Treaty of Rome;
B. Under U.S. and any other national legislation.
4. Pricing in an emergency, including inconsistencies between IEP Article 10 and the Emergency Management Manual.
5. Possibility of companies rescinding an approved Type 2 voluntary offer.
6. Revision of ISOM manual, Section V.
7. Future work program.

III. A meeting of the IAB to the IEA will be held on May 14 and 15, 1981, at the Imperial Hotel, 1–1–1 Uchisaiwai-Chu, Chiyoda-ku PC, Tokyo, Japan, beginning at 9:00 a.m. on May 14. The meeting will be continued on May 15, if necessary, at the Imperial Hotel, or at such other location in Toyko as may be announced on May 15. The agenda for the meeting is as follows:

1. Opening remarks.
2. Communications to and from IEA and Reporting Companies.
3. Matters arising from Record Notes of IAB Meetings of December 15, 1980, and January 28, 1981.
4. Report on, and discussion of:
A. Joint SOM and SEQ meeting of March 24, 1981;
B. SEQ meeting of March 24–25, 1981.
5. A. Progress report by the IEA Secretariat on, and discussion of, the work of the IEA-high-level *Ad Hoc* Group on Pre-Trigger Emergency Management.
B. Report by IEA Secretariat on, and discussion of, Governing Board meeting of March 31, 1981, and other recent developments.
6. Report by IEA on, and discussion of, worldwide supply situation following April (and possibly May) Questionnaire B submission, and outlook for 1981.
7. Subcommittee A Report, including:
A. Impact of destination restrictions on the Emergency Sharing System;
B. Matters remaining from AST–3, including work necessary to simulate pricing effects in AST–4;
C. Aspects of pricing in a real emergency;
D. Non-crisis alternatives to Questionnaires A and B;
E. Buffer stocks needed to hold 90 days at all times;
F. Data questions, including:
(1) New Questionnaire A format;
(2) Country-by-country data survey;
(3) Update of crude oil list in ISOM;
(4) Trade discrepancies;
(5) New rolling 4-quarter period to replace fixed BPFC in a crisis;
(6) Review of industry position regarding forward stocks at sea;
(7) Secretariat action in an emergency to compensate for incomplete data input.
G. Desirability of finely tuning the rules in Emergency Management Manual, such as:
(1) Establishment before a trigger of priorities for allocation;
(2) Start-point of sharing after a trigger.
H. Review of proposed inclusion of petrochemical naphtha in emergency reserves.
I. Principles of bunker demand restraint.
J. Training sessions:
(1) Participation in Secretariat's training session on Emergency System;
(2) ISAG indoctrination seminar.
K. Future work program.
8. Subcommittee C report, including:
A. IEA Dispute Settlement Centre, including:
(1) The draft Procedures for Arbitration;
(2) Report of April 6 meeting of SEQ Working Group on the DSC.
B. Legal clearances for a real emergency.
(1) Under Treaty of Rome;
(2) Under U.S. and any other national legislation.
C. Legal questions arising out of conclusions and decisions of the Governing Board's March 31 meeting and results of its high level *Ad Hoc* Group:
(1) Under Treaty of Rome;
(2) Under U.S. and any other national legislation.
D. Pricing in an emergency, and reconcilation of inconsistencies between IEP Article 10 and the Emergency Management Manual.
E. Possibility of the rescission by companies of an approved Type-2 voluntary offer.
F. Revision of ISOM Manual, Section V.
G. Future work program.
9. A. ISAG management and nominations for staffing.
B. Report by ISAG and IEA Secretariat on the March 12 ISAG meeting in San Francisco.
C. Date of AST–4.
10. Future work program and meeting schedule.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., April 29, 1981.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 81-13826 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Ozona Gas Processing Plant; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action Taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Peition submitted to the Office of Hearings and Appeals: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Charles L. Croxton, Program Manager for Natural Gas Liquids, Program Operations Division, Office of Enforcement, 2000 M Street, NW., Room 5204, Washington, D.C. 20461 (202) 653-3541.

SUPPLEMENTARY INFORMATION: On December 20, 1979, the Office of Enforcement of the ERA published notification in the Federal Register that it executed a proposed Consent Order with Ozona Gas Processing Plant (OGP) of Tyler, Texas on November 26, 1979. 44 FR 75450 (1979). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the proposed Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by OGP pursuant to the proposed Consent Order were requested to submit notice of their claims to the ERA.

A second notice was published in the Federal Register, 45 FR 8697 (1980). That second notice stated that after consideration of the one comment received, the ERA had concluded that the Consent Order as executed was an appropriate resolution of the compliance proceedings. The Consent Order was made effective February 8, 1980.

Pursuant to the Consent Order, OGP refunded the sum of $814,000 by certified checks made payable to the United States Department of Energy. This sum has been placed into a suitable account pending determination of its proper distribution.

The following persons submitted claims to the ERA: Suburban Propane Gas Corporation, Growth Energy, Inc.

ACTION TAKEN: The ERA is unable to identify readily the persons entitled to recieve the $814,000 or to ascertain the amounts of refunds that such persons are entitled to receive. The ERA, therefore, has petitioned the Office of Hearings and Appeals (OHA) on April 27, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seg.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C., on the 30th day of April 1981.

James Fenton,

Acting Director, Programs Operations Division.

[FR Doc. 81-13628 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of applicable law as indicated.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, DC 20461, phone 202/653-3517. On or before May 22, 1981, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 30th day of April 1981.

Charles L. Croxton,

Acting Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration.

Proposed Remedial Orders—Southwest District

Station	Address	Date	Violation amount	Highest costs per gallon violation
C & C Mobil Service	7020 N.W. 23, Bethany, OK 73008	3/25/81	$667.01	34
Cole's Service Station	738 Cubbertson Dr., Oklahoma City, OK 73105	3/25/81	5,656.34	65

[FR Doc. 81-13627 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 739 etc.]

Appalachian Power Company, et al.; Expiration

April 30, 1981.

So that the Congress may have an adequate opportunity to decide whether upon the expiration of the licenses, to take over the projects under Section 14 of the Federal Power Act, as amended (16 U.S.C. 807), and that the Licensees for the projects and others may have adequate notice and opportunity to file timely application for new licenses under Section 15 of the Act, as amended (16 U.S.C. 808), public notice is hereby given that the license issued for the designated and described projects on the appended tables will expire on the dates specified.

Lois D. Cashell,

Acting Secretary.

Table 1.—*Projects for Which Licenses Will Expire Between Jan. 1, 1981 and Dec. 31, 1986, Inclusive, Which Are Subject to Relicensing or Takeover* [1]

License expiration date	Licensee	FERC Project No.	State	County	Stream	Installation (kilowatts)	Facilities under license	Period of License (years)
6-30-81	Appalachian Power Co.	739	Virgina	Pulaski	New River	77,400	Dam, reservior, powerhouse and transmission line.	50
9-30-82	Pacific Gas and Electric Co.	1962	California	Butte and Plumas	North Fork of Feather River	180,900	2 dams, 2 reserviors, 2 powerhouses and transmission lines.	35
1-15-84	Kanawha Valley Power Co.	1175	West Virgina	Kanawha and Fayette	Kanawha River	28,800	2 dams, 2 powerhouses and transmission lines.	50
1-16-84	Kanawha Valley Power Co.	1290	West Virgina	Kanawha and Putnam	Kanawha River	14,760	Powerhouse and transmission lines.	46
6-10-84	Idaho Power Co	18	Idaho	Jerome and Twin Falls	Snake River	8,438	Dam, powerhouse and transmission line.	50
2-10-85	Duke Power Co	1267	South Carolina	Greenwood, Laurens, and Newberry.	Saluda River	15,000	Dam, reservoir and powerhouse.	50
3-31-85	Pacific Gas and Electric Co.	1988	California	Fresno	Kings River, N. Fork Kings River, Helms Creek.	179,100	6 dams, 2 reservoirs, tunnel, 2 powerhouses and transmission lines.	30
11-30-86	South California Edison Co.	1300	California	Mono	Leaving Creek	10,000	Dams, power plant	50
11-30-86	South California Edison Co.	1389	California	Mono	Rush Creek	8,400	Dams, power plant	50
11-30-86	South California Edison Co.	1390	California	Mono	Mill Creek	2,400	Dams, power plant	50
11-30-86	South California Edison Co.	1394	California	Inyo	Bishop, Birch and McGee Creeks.	21,875	Dams, power plant	50
12-31-86	Wisconsin Public Service Corp.	1940	Wisconsin	Lincoln	Wis. River	2,600	Dams, power plant	50

[1] Sec. 14 of the Federal Power Act (16 U.S.C 807), reserves the right of the United States to take over the project works upon expiration of the license at a price to be determined under that section, but may be waived pursuant to Sec. 10(i). Sec. 14 is not applicable to any project owned by a state or municipality, pursuant to the act of Aug. 15, 1953 (67 Stat. 567).

Table 2.—*Projects for Which Licenses Will Expire Between Jan. 1, 1981 and Dec. 31, 1986, Inclusive, Which Are Not Subject to Takeover* [1]

License expiration date	Licensee	FERC Project No.	State	County	Stream	Installation (kilowatts)	Facilities under license	Period of License (years)
8-23-83	City of Ephraim	1212	UT	Sanpete	City Creek [2]	205	Pipeline and powerhouse	50
12-6-83	City of Radford	1235	VA	Montgomery and Pulaski	Little Creek [2]	800	Dam, reservoir and powerhouse	50
4-16-84	Loup River Public Power District.	1256	NE	Platte, Nance, Madison, Stanton, Wayne, Dixon, Colfax, Dodge, Douglas, Butler, Saunders and Lancaster.	Loup River	47,738	Diversion, dams, reservoirs, powerhouses and transmission lines.	50
5-30-84	City of Pasadena	1250	CA	Los Angeles	San Gabriel River	3,000	Diversion dam and powerhouse	50
9-18-84	Red Bluff Water Power Control Dist.	1280	NM	Eddy	Pecos [3]	2,300	Dam, power plant	50
10-31-85	Utah Power & Light Co	703	ID	Pear Lake	Paris Creek [2]	650	Dam, canal, forebay and powerhouse.	10

[1] Sec. 14 of the Federal Power Act (16 U.S.C 807), reserves the right of the United States to take over the project works upon expiration of the license at a price to be determined under that section, but may be waived pursuant to Sec. 10(i) to the Act (16 U.S.C. 803(i)). Section 14 is not applicable to any project owned by a State or municipality, pursuant to the Act of Aug. 15, 1953 (67 Stat. 587).
[2] Minor License.
[3] Includes equivalent kW for 60 hp (mechanical).
[4] Does not include an additional 410 MW in second powerhouse currently under construction.

[FR Doc. 81-13740 Filed 5-6-81; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ID-1944-000]

Earl G. Cheney; Application

May 4, 1981.

The filing individual submits the following:

Take notice that on April 13, 1981, Earl G. Cheney, pursuant to Section 305(b) of the Federal Power Act, tendered for filing an application for authority to hold the following positions:

Executive Vice President and Director—Cambridge Electric Light Company; Canal Electric Company; Commonwealth Electric Company

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 §§ 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 May 18, 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. 81-13760 Filed 5-6-81; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 4204-000]

City of Batesville, Arkansas; Application for Preliminary Permit

May 5, 1981.

Take notice that City of Batesville, Arkansas (Applicant) filed on February 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. 4204 to be known as White River L&D #1 Hydro Project located on the White River in Independence County, Arkansas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mayor Jim Shirrell, City Hall, Batesville, Arkansas 72501. 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 be run-of-the-river and would consist of: (1) An existing dam, 660 feet long and 31 feet high, constructed of concrete with a spillway section and a navigation lock at the left river bank; (2) a reservoir having negligible pondage; (3) an intake structure; (4) new penstocks; (5) a new powerhouse containing generating units having a total rated capacity of 10,000 kW; (6) a tailrace; (7) a new transmission line, approximately one mile long; and (8) appurtenant facilities. The Applicant estimates that the average annual energy output would be 43,800,000 kWh.

Purpose of Project—Project energy would be utilized by the City of Batesville and would be sold to public and private utilities.

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, historic and recreational aspects of the project. Depending on 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 $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 Ramel Corporation's application for Project No. 3658 filed on November 3, 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 June 10, 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. 4204. 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, 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. 81-13758 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4145-000]

City of Valentine, Nebraska; Application for Preliminary Permit

May 1, 1981.

Take notice that The City of Valentine (Applicant) filed on February 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. 4145 to be known as Merritt Dam located on the Snake River in Cherry County, Nebraska. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ms. Norma Jean New, City Manager, The City of Valentine, 323 North Main, Valentine, Nebraska 69201. 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 United States Water and Power Resources Service's dam and reservoir. Project No. 4145 would consist of: (1) A proposed powerhouse located above the point on the outlet works where water is diverted to the Ainsworth Canal, and having an estimated installed generating capacity of 4.2 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 36 GWh.

Purpose of Project—Energy produced at the proposed project would be used by the residents of the City of Valentine, Nebraska.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 24 month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, environmental and social studies, and soils and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State, and local agencies is estimated 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 Mitchell Energy Company, Inc. & Enagenics Projects Nos. 3738 and 3813 filed on November 12, 1980 and December 3, 1980 respectively under 18 CFR 4.33 (1980). Anyone desiring to file a competing application must submit to the Commission, on or before May 18, 1981, either the competing application itself or a notice of intent to file a competing application. Submisssion of a timely notice of intent allows an interested person to file the competing application no later than July 17, 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 June 5, 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. 4145. 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. 81-13741 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4358-000]

Columbia Basin Project Irrigation Districts; Application for Preliminary Permit

May 4, 1981.

Take notice that the Columbia Basin Project Irrigation Districts (Applicant) filed on March 17, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)) for proposed Project No. 4358 to be known as the Scooteney Inlet Project located on Potholes East Canal in Franklin 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. Russell D. Smith, Secretary-Manager, South Columbia Basin Irrigation District, P.O. Box 1006, Pasco, Washington 99301. 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 canal diverting flows from the Water and Power Resources Service's existing Potholes East Canal immediately upstream of the check structure at Scooteney Inlet; (2) a powerhouse containing two generating units with a total rated capacity of 2.8 MW; and (3) a 7,500-foot long, 34.5-kV transmission line. The Applicant estimates that the average annual output would be 10,000 MWh.

Purpose of Project—Project energy would be sold.

Proposed Scope and Cost of Studies Under Permit—Applicant would conduct detailed studies to determine the technical, economic, financial, and environmental feasibility of the proposed project. The estimated costs of conducting the studies are preparing an application for license or exemption is $91,000.

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 June 18, 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 17, 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 comment, protest, or petition to intervene must be received on or before June 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. 4358. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the orginal 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 respresentative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-13742 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-115-002]

Columbia Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

May 1, 1981.

Take notice that on April 15, 1981, Columbia Gas Transmission Corporation (Columbia) tendered for filing Second Revised Sheet No. 335 to its FERC Gas Tariff, Original Volume No. 2. The revised tariff sheet bears an issue date of April 13, 1981, and an effective date of August 1, 1980.

By Order dated March 16, 1981, in *The Union Light, Heat & Power Company*, Docket No. RP80-115, the Commission approved a Stipulation and Agreement providing for a rate of return component of 9.84% to be used in computing *The Union Light, Heat & Power Company's* (Union) charges to Columbia under Union's Rate Schedule X-4. According to Columbia, Union's Rate Schedule X-4 consists of a March 2, 1972 Revised Transportation and Reimbursement Agreement among Columbia, Union, and The Cincinnati Gas and Electric Company (Cincinnati)—an Agreement which is also on file with the Commission as Columbia's Rate Schedule X-33, FERC Gas Tariff, Original Volume No. 2. Under this Agreement, Columbia pays Union an allocated portion of Union's annual costs pertaining to the facilities involved in the transportation service rendered by Union. Columbia in turn is reimbursed by Cincinnati for all payments made by Columbia to Union under the Agreement. Pursuant to Article I of the referenced Stipulation and Agreement, Columbia states that it is required to file a revised tariff sheet to its Rate Schedule X-33 of its FERC Gas Tariff, Original Volume No. 2, to reflect the settlement rate of return of 9.84%.

Any person desiring to be heard or protest said filing 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 May 15, 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 proceedings. Any person wishing to become a party must file a petition to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-13756 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4417-000]

Consolidated Hydroelectric, Inc.; Application for Preliminary Permit

May 4, 1981.

Take notice that Consolidated Hydroelectric, Inc. (Applicant) filed on March 25, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for proposed Project No. 4417 to be known as Horse Linto Creek, Humboldt located on Horse Linto Creek in Humboldt County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: L. Porter Davis, Consolidated Hydroelectric, Inc., 698 Azalea Avenue, 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 three facilities. The Upper Facility would consist of: (1) Two natural rock diversion structures; (2) a 20-foot long, 5-foot high, 8-foot wide concrete diversion structure; (3) a 80-foot long, 5-foot high, 8-foot wide concrete diversion structure; (4) two diversion conduits or channels with a total length of 10,200 feet; (5) a 1,000-foot long, 36-inch diameter penstock; (6) a powerhouse containing generating equipment with a combined capacity of 4,500 kW; and (7) a 1.5-mile long, 12.5-kV transmission line. The Applicant estimates that the average annual energy output from the Upper Facility would be 19.8 million kWh.

The Middle Facility would consist of: (1) A natural rock diversion structure; (2) an 88-foot long, 5-foot high, 8-foot wide concrete diversion structure; (3) an 8,300-foot long diversion conduit or channel; (4) a 900-foot long, 36-inch diameter penstock; (5) a powerhouse containing generating equipment with a combined capacity of 3,000 kW; and (6) a 1-mile long, 12.5-kV transmission line. The Applicant estimates that the average annual energy output from the

Middle Facility would be 13.2 million kWh.

The Lower Facility would consist of: (1) A natural rock diversion structure; (2) a 45-foot long, 5-foot high, 8-foot wide concrete diversion structure; (3) a 4,500-foot long diversion conduit or channel; (4) a 1,500-foot long, 28-inch diameter penstock; (5) a powerhouse containing generating equipment with a combined capacity of 2,050 kW; and (6) a 6-mile long, 12.5-kV transmission line. The Applicant estimates that the average annual energy output from the Lower Facility would be 8.1 million kWh.

Purpose of Project—The power generated by the proposed project would be 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 time it would survey the project boundary; perform geological studies; prepare an environmental report; study the economic and financial feasibility; and apply for necessary rights. The cost of these studies is estimated by the Applicant to be $80,000 to $140,000.

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 July 9, 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 September 8, 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 July 9, 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. 4417. 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. 81-13743 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4338-000]

Consolidated Hydroelectric, Inc.; Application for Preliminary Permit

May 4, 1981.

Take notice that Consolidated Hydroelectric (Applicant) filed on March 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. 4338 to be known as the Deep Hole Creek Project located on the Deep Hole Creek in Mendocino County, near Covelo, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. L. Porter Davis, Vice President, Consolidated Hydroelectric, Inc., 698 Azalea Avenue, 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 5-foot high by 150-foot long combination natural rock and concrete diversion structure; (2) a 4,800-foot long, 66-inch diameter diversion conduit; (3) an 1,800-foot long, 50-inch diameter steel penstock serving; (4) a powerhouse with a total installed capacity of 4,600 kW; and (5) approximately 13 miles of 12.5-kV transmission line to connect to an existing Pacific Gas and Electric Company (PG&E) transmission line.

The Applicant estimates that the average annual energy output would be 17.2 million kWhs.

Purpose of Project—Applicant proposes to sell the project energy to PG&E.

Proposed Scope and Cost of Studies under Permit—The Applicant has conducted some reconnaissance studies of the site. The Applicant now seeks issuance of a preliminary permit for a period of 36 months, during which it would prepare a definitive project report that would include engineering, economic, and environmental data. The cost of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application is estimated by the Applicant to be about $140,000. Some ground distrubing activities, including field tests, and borings, will be undertaken during the permit period. All disturbances will be kept to a minimum and will be restored to their original condition as close as possible. No new road construction

would be required to conduct the field studies under the proposed permit.

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 July 9, 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 September 8, 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 protest about this applicaton 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 July 9, 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. 4338. 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. 81-13744 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4330-000]

Consolidated Hydroelectric, Inc.; Application for Preliminary Permit

May 4, 1981.

Take notice that Consolidated Hydroelectric Inc. (Applicant) filed on March 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. 4330 to be known as the Beaver Creek, Mendocino Power Project located on the Beaver Creek in Mendocino County, near Covelo, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. L. Porter Davis, Vice President, Consolidated Hydroelectric, Inc., 698 Azalea Avenue, 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 5-foot high by 60-foot long combination natural rock and concrete diversion structure; (2) a 5,000-foot long diversion conduit with varying diameter from 42 inches to 80 inches; (3) a 1,300-foot long, 50-inch diameter steel penstock serving; (4) a powerhouse with a total installed capacity of 4,390 kW; and (5) approximately 11 miles of 12.5-kV transmission line to connect to an existing Pacific Gas and Electric Company (PG&E) transmission line.

The applicant estimates that the average annual energy output would be 15.4 million kWhs.

Purpose of Project—Applicant proposes to sell the project energy to PG&E.

Proposed Scope and Cost of Studies under Permit—The Applicant has conducted some reconnaissance studies of the site. The Applicant now seeks issuance of a preliminary permit for a period of 36 months, during which it would prepare a definitive project report that would include engineering, economic, and environmental data. The cost of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application is estimated by the Applicant to be about $140,000. Some ground disturbing activities, including field tests, and borings, will be undertaken during the permit period. All disturbances will be kept at a minimal and will be restored to their original condition as close as possible. No new road construction would be required to conduct the field studies under the proposed permit.

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 examination 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 July 9, 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. A notice of intent September 8, 1981 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 protest 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 July 9, 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. 4330. 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. 81-13745 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4121-000]

Consolidated Hydroelectric, Inc.; Application for Preliminary Permit

May 4, 1981.

Take notice that the Consolidated Hydroelectric, Inc. (Applicant) filed on February 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. 4121 to be known as the Middle Fork Sacramento River located on Middle Fork Sacramento River in Siskiyou County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: L. Porter Davis, Consolidated Hydroelectric, Inc., 698 Azalea, 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 diversion structure; (2) a 7,500-foot long conduit; (3) a 1,700-foot long, 32–inch diameter penstock; (4) a powerhouse containing a 3,975-kW generating unit; and (5) a 5.5 mile long, 12.5-kV transmission line. The Applicant estimates that the average annual output would be 15.7 million kWh.

Purpose of Project–The power generated by the proposed project would be sold to Pacific Power and Light Company.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a prelimary permit for a period of 36 months, during which it would survey the project boundary; make a geologic study; prepare an environmental report, perform economic, and financial feasibility studies; and apply for necessary rights. The cost of these studies is estimated by the Applicant to be $80,000 to $140,000.

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 July 9, 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 September 8, 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 protests 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 July 9, 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. 4121. 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 respresentative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-13746 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Projects Nos. 4095-000 and 4203-000]

Consolidated Hydroelectric, Inc., Richard L. Bean and Fred G. Castagna; Application for Preliminary Permit

May 5, 1981.

Take notice that Consolidated Hydroelectric, Inc., and Richard L. Bean and Fred G. Castagna (Applicants) filed on January 30, 1980, and February 13, 1981, respectively, applications for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)) for proposed Projects Nos. 4095 and 4203 to be known as Corral and Gates Creek and Corral Creek, respectively, located on Corral Creek and Gates Creek and Corral Creek, respectively, in Trinity County, California. The application is on file with the Commission and is available for public inspection. Correspondence with Consolidated Hydroelectric, Inc. should be directed to: L. Porter Davis, Consolidated Hydroelectric, Inc., 698 Azalea, Redding, California 96002. Correspondence with Richard L. Bean and Fred G. Castagna should be directed to: Richard L. Bean and Fred G. Castagna, 1646 East Street, 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 by Consolidated Hydroelectric, Inc. would consist of: (1) Two natural rock diversion structures; (2) a 250-foot long, 5-foot high, 8-foot wide, concrete diversion structure; (3) a 30-foot long, 5-foot high, 8-foot wide, concrete diversion structure; (4) two diversion conduits or channels with a combined length of 8,000 feet; (5) a transition structure; (6) a 1060-foot long, 66-inch diameter penstock; (7) a powerhouse containing generating equipment with a combined capacity of 3,870 kW; and (8) a 1.2-mile long, 12.5-kV transmission line. Consolidated Hydroelectric, Inc. estimates that the average annual energy output would be 15.2 million kWh.

The project proposed by Richard L. Bean and Fred G. Castagna would consist of: (1) A natural rock diversion structure; (2) a 4-mile long conduit or canal; (3) an enclosed pressure box or an open headworks; (4) a 1,800-foot long, 36-inch diameter penstock; (5) a powerhouse containing two generating units, rated at 1,200 and 2,000 kW respectively; and (6) a transmission line. Richard L. Bean and Fred G. Castagna estimate that the average annual energy output would be 6.9 million kWh.

Purpose of Project—The power generated by each proposed project would be sold to Pacific Gas and Electric Company.

Proposed Scope and Cost of Studies Under Permit—Consolidated Hydroelectric seeks issuance of a preliminary permit for a period of 36 months, during which time it would survey the property; perform geologic studies; prepare an environmental report; perform economic and financial studies; and apply for necessary rights. The Applicant estimates the cost of these studies to be $80,000 to $140,000. Richard L. Bean and Fred G. Castagna seek issuance of a preliminary permit for a period of 24 months, during which time they would conduct geological and soils stability tests; study the hydrology; analyze the environmental impacts; survey the project area; perform an economic analysis; and apply for necessary rights. The Applicant estimates the cost of these studies to be $90,000.

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 July 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 September 18, 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 June 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. 4095 and 4023. 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. 81-13757 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3775 and Project No. 3792]

Cook Electric Co. and Enagenics; Application for Preliminary Permit

May 1, 1981.

Take notice that Cook Electric Company (Cook) and Enagenics filed on November 21, 1980 and November 28, 1980, respectively, competing applications for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r) for proposed Project Nos. 3775 and 3792 to be known as Sun River Diversion Dam Located at the U.S. Water Power and Resources Service's Sun River Diversion Dam on the Sun River in Lewis and Clark County and in Teton County, near the town of Augusta, Montana. The applications are on file with the Commission and are available for public inspection. Correspondence with Cook should be directed to: Mr. Warren P. Chapman, Cook Electric Company, P.O. Box 1071, Twin Falls Idaho 83301. 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 Cook and Enagenics would both consist of: (1) A proposed powerhouse located on the southern bank of the river; (2) proposed transmission facilities; and (3) appurtenant facilities. Cook estimates the capacity of its project to be about 1.1 MW with an annual generation of 8,500 MWh. Enagenics estimates the capacity of its project to be 1.0 MW with an annual generation of 8,800 MWh.

Purpose of Project—Cook proposes to negotiate with local utility companies for the purchase of the project generation. Enagenics states that Montana Power Company or the Sun Valley Electric Cooperatives are the most likely market for the project power.

Proposed Scope and Cost of Studies under Permit—Both Applicants have requested 36-month permits to undertake the necessary studies including design and economic feasibility, and assessment of environmental impact. Cook estimates the cost of studies for Project No. 3775 under the permit would be approximately $62,200, while Enagenics estimates the cost of studies for Project No. 3792 would be approximately $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—Anyone desiring to file a competing application must submit to the Commission, on or before July 13, 1981, either the competing application itself or a notice of intent to file a competing application. Submisssion of a timely notice of intent allows an interested person to file the competing application no later than September 11, 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 July 13, 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 Nos. 3775 and 3792. 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. 81-13747 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4192-000]

Diamond Power Corp.; Application for Preliminary Permit

May 5, 1981.

Take notice that The Diamond Power Corporation (Applicant) filed on February 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. 4192 to be known as the Five Mile Pond Project located on the Five Mile River in the Town of Killingly, Windham County, Connecticut. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mel Barkan, 1330 Boylston Street, Suite 512, Chestnut Hill, Massachusetts 02167. 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 Five Mile Pond Dam, approximately 120 feet long, varying in height from 8 to 16 feet, and surmounted by flashboards 1.75 feet high; (2) Five Mile Pond, with a surface area of 81 acres and a storage capacity of 240 acre-feet at 220.75 feet msl; (3) a new gate house; (4) trash racks; (5) a new powerhouse; (6) a 412-kw turbine/generator unit; (7) a new tailrace into the Quinebaug River; (8) a new 23-kV transmission line 5,500 feet long; and (9) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,725,000 Kwh.

Purpose of Project—Project power would be sold to Connecticut Power and Light 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 agreemennt 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 $20,000.

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 July 17, 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 September 15, 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 July 17, 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. 4192. 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. 81-13759 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1948-000]

Jeremiah V. Donovan; Application

May 4, 1981.

The filing individual submits the following:

Take notice that on April 13, 1981, Jeremiah V. Donovan, pursuant to Section 305(b) of the Federal Power Act, tendered for filing an application for authority to hold the following positions:

Executive Vice President and Director—Cambridge Electric Light Company; Canal Electric Company; Commonwealth Electric Company

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 or 1.10). All such petitions or protests should be filed on or before May 18, 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. 81-13765 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4414-000]

East Bay Municipal Utility District; Application for Preliminary Permit

May 1, 1981.

Take notice that East Bay Municipal Utility District (Applicant) filed on March 25, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for proposed Project No. 4414 to be known as the Upper Mokelumne River (Railroad Flat Dam Site) Project located on the South Fork Mokelumne River in Calaveras 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. John B. Reilley, General Counsel, East Bay Municipal Utility District, P.O. Box 24055, Oakland, California 94623. 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 Railroad Flat Dam, a new 345-foot high, 1,400-foot long rockfill structure creating a reservoir with storage capacity of 80,000 acre-feet; (2) the Middle Fork Diversion Dam, a new 130-foot high by 730-foot long structure creating a pondage with a capacity of 4,300 acre-feet; (3) a 35,000-foot long power tunnel; (4) a 2,900-foot long, 6-foot diameter penstock leading to; (5) a powerhouse to contain one impulse-type turbine-generating unit with a rated capacity of 20 MW; and (6) a 2.3-mile long, 230-kV transmission line to connect to an existing Pacific Gas and Electric Company transmission line. The Applicant estimates that the average annual energy output would be 60 million kWhs.

Purpose of Project—Applicant proposes to sell the project energy to a utility for distribution in the Northern California market.

Proposed Scope and Cost of Studies Under Permit—The Applicant has conducted some preliminary studies of the site. The Applicant now seeks issuance of a preliminary permit for a period of 36 months, during which time it would prepare a definitive project report that would include engineering, economic, and environmental data. The cost of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application is estimated by the Applicant to be about $1,130,000. A detailed work plan and schedule was submitted as part of the application. Some ground disturbing activities, including field tests, and borings, may be undertaken during the permit period. All disturbances will be minimal and will be restored to their original condition as close as possible. No new road construction would be required to conduct the field studies under the proposed permit.

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 June 17, 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 17, 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 June 17, 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. 4414. 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. 81-13748 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-23-001]

Eastern Shore Natural Gas Co.; Revised Tariff Filing

May 1, 1981.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on April 3, 1981, tendered for filing the following revised tariff sheets to Original Volume No. 1 of Eastern Shore's FERC Gas Tariff:

To Be Effective March 1, 1981

Substitute Seventeenth Revised Sheet No. 5
Substitute Seventeenth Revised Sheet No. 6
Substitute Seventeenth Revised Sheet No. 10
Substitute Seventeenth Revised Sheet No. 11
Substitute Seventeenth Revised Sheet No. 12

Eastern Shore states that the purpose of this filing is to reflect a Purchased Gas Cost Current Adjustment. This filing is being made in accordance with Section 21 of Eastern Shore's FERC Gas Tariff and the Purchased Gas Cost Adjustment reflects rates payable to Eastern Shore's supplier during the period March 1, 1981 through August 31, 1981.

Eastern Shore states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing 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 May 15, 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 filing are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-13761 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3991-000]

Energenics Systems, Inc.; Application for Preliminary Permit

May 1, 1981.

Take notice that Energenics Systems, Inc. (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. 3991 to be known as the Cross-Cut Diversion Dam Project located on the Henry's Fork River in Fremont 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. Thomas H. Clarke, Jr.; President; Energenics Systems, Inc.; 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. Water and Power Resources Service's Cross-Cut Diversion Dam and would consist of: (1) A new intake structure; (2) a new penstock; (3) a new powerhouse, having an installed generating capacity of 2,700 kW; (4) a new tailrace; (5) a new transmission line; and (6) appurtenant facilities. Applicant estimates that the average annual energy output would be 7,600,000 kWh.

Purpose of Project—Project energy would be sold to the Fall River Rural Electric Cooperative.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, historic and aesthetic impacts, and project power potential. Depending on the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of studies under the permit would 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—Anyone desiring to file a competing application must submit to the Commission, on or before July 13, 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 September 11, 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 July 13, 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. 3991. 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. 81-13749 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3973-000]

Energenics Systems, Inc.; Application for Preliminary Permit

May 5, 1981.

Take notice that Energenics Systems, Inc. (Applicant) filed on January 12, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 6 U.S.C. 791(a)–825(r)) for proposed Project No. 3973 to be known as Monongahela River Lock and Dam No. 2 located on the Monongahela River in Allegheny 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. Thomas H. Clarke, Jr., President, ENERGENICS SYSTEMS, INC., 1727 Q Street, NW, Washington, D.C. 20009, (202) 332–3705. 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' Monongahela Lock and Dam No. 2 and would consist of: (1) A powerhouse containing generating units having a total rated capacity of 3.8 MW; (2) the existing transmission lines; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 21.8 GWh.

Purpose of Project—The energy generated at the proposed project would be sold to Duquesne Light Co., or other alternatives such as nearby public institutions or industrial users.

Proposed Scope and Cost of Studies Under Permit—The proposed term of the requested permit is 36 months. 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 that the cost of the work to be performed under the preliminary 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 Permitteee undertakes the necesary 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 the 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. 3752 submitted on November 18, 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 June 10, 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. 3973. 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. 81-13760 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3951-000 and Project No. 4299-000]

Energenics Systems, Inc. and Creswell Heights Joint Authority; Application for Preliminary Permit

May 1, 1981.

Take notice that Energenics Systems, Inc. (ESI) and the Creswell Heights Joint Authority (CH) filed on January 9, 1981, and March 6, 1981, applications for preliminary permits (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for proposed Projects Nos. 3951 and 4299, respectively, to be known as the Dashields Project located on the Ohio River near the Town of Edgeworth in Allegheny County, Pennsylvania. Correspondence with ESI should be directed to: Mr. Thomas H. Clarke, Jr., President, Energenics Systems, Inc., 1727 Q Street, N.W., Washington, D.C. 20009. Correspondence with CH should be directed to: Mr. George McElhaney, Manager, Creswell Heights Joint Authority, 101 South Jordan Street, South Heights, Pennsylvania 15081.

Project Description—Each project would utilize the existing Corps of Engineers' Dashields Lock and Dam.

Project No. 3951 would consist of: (1) A new powerhouse on the northern river-bank; (2) one turbine/generating unit rated at 48.9 MW and operating under a head of approximately 9.6 feet; (3) a 35.9–kV transmission line two miles long; and (4) appurtenant facilities.

Project No. 4299 would consist of: (1) A new powerhouse located at the dam's northern abutment or in-channel near the downstream face of the dam; (2) turbine/generator units with a power potential of 23.5 MW; (3) a 3.59–kV and 2.0-mile long or 69–kV and 0.8-mile long

transmission line; and (4) appurtenant facilities.

Purpose of the Projects—ESI would probably sell the project power to the Duquesne Light Company. CH would use the project power to operate water treatment facilities and for other municipal purposes. Any excess power would be sold to Duquesne Light Company.

Proposed Scope and Cost of Studies Under Permit—Each applicant seeks issuance of 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 an FERC license, including an environmental report. Both ESI and CH estimate the cost of studies under its 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 preliminary permit. (Copies of the applications 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.—These applications were filed as competing applications to the application filed by Mitchell Energy Company for Project No. 3747 on November 17, 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 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 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 June 5, 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 applications for preliminary permit for Projects Nos. 3951 and 4299. 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, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any application, or petition to intervene must also be served upon each representative of the Applicants specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-13750 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Projects Nos. 4169-000 and 4325-000]

Energenics Systems, Inc. and Talent Irrigation District; Application for Preliminary Permit

May 5, 1981.

Take notice that Energenics Systems, Inc. and Talent Irrigation District (Applicants) filed on February 10, and March 12, 1981, competing applications for a preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for proposed Projects Nos. 4169 and 4325, respectively, to be known as the Emigrant Dam Hydroelectric Project located on Emigrant Creek in Jackson County, Oregon. The applications are on file with the Commission and are available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, ENERGENICS SYSTEMS, INC., 1727 Q Street, NW., Washington, D.C. 20009 and Mr. W. H. Hoffbuhr, Talent Irrigation District, P.O. Box 467, Talent, Oregon 97540. Any person who wishes to file a response to this notice should read the entire notice, must comply with the requirements specified for the particular kind of response that person wishes to file, and must identify which application is being addressed.

Project Description—The proposed Project would consist of a powerhouse located adjacent to the outlet works of the Water and Power Resources Service's existing Emigrant Dam and a short transmission line. Energenics Systems, Inc.'s project would have a capacity of 849 kW and an average annual energy output of 1,850 MWh. The District's project would have a capacity of 2,000 kW and an average annual output of 6,900 MWh.

Purpose of Project—Power produced by the proposed project would be sold to a utility or other power purchaser.

Proposed Scope and Cost of Studies Under Permit—The Applicant would conduct a detailed feasibility study including engineering, environmental, and economic analysis. Energenics Systems, Inc. estimates the costs of its studies to be $30,000. The District's studies are estimated to cost $41,600.

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. (Copies of the 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 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—These applications were filed as competing applications to Cascade Waterpower Development Corporation's Project No. 3384 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 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 June 10, 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. 4169 and 4325. 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 Applicants specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-13762 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1947-000]

Andrew S. Griffiths; Application

May 4, 1981.

The filing individual submits the following:

Take notice that on April 13, 1981, Andrew S. Griffiths, pursuant to Section 305(b) of the Federal Power Act, tendered for filing an application for authority to hold the following positions:

Vice President—Cambridge Electric Light Company; Canal Electric Company; Commonwealth Electric Company

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 or 1.10). All such petitions or protests should be filed on or before May 18, 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. 81-13755 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1946-000]

Robert E. Healey; Application

May 4, 1981.

The filing individual submits the following:

Take notice that on April 13, 1981, Robert E. Healey, pursuant to Section 305(b) of the Federal Power Act, tendered for filing an application for authority to hold the following positions:

Vice President—Cambridge Electric Light Company; Canal Electric Company; Commonwealth Electric Company

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 or 1.10). All such petitions or protests should be filed on or before May 18, 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. 81-13760 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4114-000]

Long Lake Energy Corp.; Application for Preliminary Permit

May 4, 1981.

Take notice that the Long Lake Energy Corporation (Applicant) filed on February 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. 4114 to be known as the Lower Saranac Project located on the Saranac River in Clinton 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. Donald E. Hamer; Long Lake Energy Corporation; 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 consider two alternatives.

Alternative 1 proposes development of the river reach extending from the vicinity of Lincoln Ponds Dam to the Fredenburg Falls Dam and would consist of: (1) The existing Lincoln Ponds Dam, a 20-foot high concrete gravity structure with a crest length of 300 feet; (2) the existing Lincoln Ponds Reservoir, with a surface area of 75 acres, at a mean surface elevation of 290.0 feet (USGS datum); (3) a new intake structure and control gate; (4) a new power canal approximately 4,000 feet long; (5) approximately 200 feet of new penstock; (6) a new powerhouse having units with an installed generating capacity of 3,300 kW; (7) a new transmission line and switchyard equipment; and (8) appurtenant facilities. The Lincoln Ponds Dam and Reservoir are owned by the Georgia-Pacific Corporation. The Applicant estimates that the average annual energy output for Alternative 1 would be 14,500,000 kWh.

Alternative 2 proposes development of the river reach extending from the vicinity of the Lincoln Ponds Dam to the Indian Rapids Dam and would consist of the same facilities listed in Alternative 1 in addition to: (1) Approximately 2,800 feet of new penstock; (2) an existing powerhouse adjacent to the Indian Rapids Dam with new generating equipment for a total Alternative 2 generating capacity of 5,200 kW; (3) the existing tailrace; and (4) the existing switchyard equipment and transmission line located adjacent to the powerhouse.

The existing generating facilities located at the Indian Rapids Dam Site are owned by the New York State Electric and Gas Corporation. The Applicant estimates that the average annual energy output for Alternative 2 would be 22,750,000 kWh.

Purpose of Project—Project energy would be sold to the new York State Electric and Gas 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 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, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of studies under the permit would be $136,000.

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 July 9, 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 September 8, 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 July 9, 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. 4114. 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. 81-13751 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1954-000]

Ronald F. MacDonald; Application

May 4, 1981.

The filing individual submits the following:

Take notice that on April 13, 1981, Ronald F. MacDonald, pursuant to Section 305(b) of the Federal Power Act, tendered for filing an application for authority to hold the following positions:

Vice President—Cambridge Electric Light Company; Canal Electric Company; Commonwealth Electric Company

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 or 1.10). All such petitions or protests should be filed on or before May 18, 1981. Protests will be considered by the Commission in determing the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 81-13727 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-52-000]

Northern Natural Gas Co.; Division of InterNorth, Inc.; Proposed Changes in F.E.R.C. Gas Tariff

May 1, 1981.

Take Notice that Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), on April 24, 1981 tendered for filing proposed changes in its F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2. The proposed changes would increase revenues from jurisdictional sales by $176,208,211 annually, based on sales volumes and costs for the twelve months ended January 31, 1981, as adjusted for the Test Period.

Northern states the principal reasons for the proposed rate increase are: (1)

increased costs of obtaining new gas supplies, (2) the need to provide a return of 13.38% on its utility investment, and (3) increased costs of operations.

The Company states that copies of the filing have been mailed to each of its Gas Utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing 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 §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitons or protests must be filed on or before May 15, 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 filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-13787 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP78-123, et al. Docket No. CP78-124]

Northwest Alaskan Pipeline Co., and Northern Border Pipeline Co.; Order To Show Cause

Issued May 1, 1981.

On December 15, 1980, the Commission issued in Docket No. CP78-123, *et al.*, (13 FERC ¶ ——), an order to show cause why the Commission should not adopt, for purposes of rate base determination, the data and opinions set forth in three Reports on Results of Audit prepared by the Office of the Chief Accountant. Those three reports covered expenditures in connection with the Alaska segment of the Alaska Natural Gas Transportation System (ANGTS).

The Commission has now received from the Office of the Chief Accountant two additional reports.[1] These reports concern the audit of expenditures in connection with the Northern Border segment of the ANGTS. The audit reports are attached to this order for review by interested persons.

The Northern Border Pipeline Company whose expenditures are the subject of the audit reports was formed as a partnership effective March 9, 1978. At that time it had four partners. A fifth partner was added in 1979.

The first audit report attached hereto covers pre-partnership expenditures by two individual companies which later became partners in Northern Border. The claimed expenditures include funds contributed to the Northern Border Pipeline Study Group for development of the project, filing fees paid to the Commission, and Allowances for Funds Used During Construction (AFUDC), with credits for recoveries made by the parent companies of the two individual companies.

The second audit report attached hereto covers expenditures incurred by the Northern Border partners from March 9, 1978 through December 31, 1979. It consists of partnership expenditures charged to the gas plant accounts, including AFUDC.

As described in our order of December 15, 1980 with respect to the Alaska segment audit, on April 18, 1979, the Commission directed[2] its Office of the Chief Accountant to audit expenditures incurred by the certificate holders of the ANGTS.[3] The Commission directed the Chief Accountant to include in the reports his opinion as to whether "expenditures are properly assignable to the project and of a nature that would qualify the expenditures for eventual inclusion in the rate base, whether the accounting used by the sponsors meets the requirements of the Uniform System of Accounts and generally accepted accounting principles, and whether the project sponsors are in compliance with other accounting and reporting regulations and requirements of the Natural Gas Act, the *Decision*, and the certificate of public convenience and necessity."[4]

The Commission orders:

(A) Within 45 days of the issuance of this order, any interested person shall show cause why the Commission should not adopt, for purposes of rate base determination pursuant to the Natural Gas Act, ANGTA, and the President's Decision, the data and opinions set forth in the two Reports on Results of Audit prepared by the Office of the Chief Accountant and attached to this order.

(B) No later than 75 days after the date of issuance of this order, any interested person may submit pleadings responsive to any pleadings submitted within the 45 day period provided by paragraph (A) above.

(C) No later than 90 days after the date of issuance of this order, any interested person who has previously filed a pleading within the 45 day period provided by paragraph (A) above, or who has filed a responsive pleading within the 75 day period provided by paragraph (B) above, may also file a pleading responsive to any new points raised in pleadings filed pursuant to paragraph (B) above.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[1] "Report on Results of Audit of Expenditures by Partners of the Northern Border Pipeline Company which were incurred prior to the Formation of the Partnership on March 9, 1978"; "Report on Results of Audit of Expenditures by the Northern Border Pipeline Company which were incurred from March 9, 1978 through December 31, 1979." Both reports are dated March, 1981.

[2] Directive to the Office of the Chief Accountant, Administrative Order No. 4, 7 FERC ¶ —— (1979).

[3] ANGTS was authorized by the Alaska Natural Gas Transportation Act (ANGTA), 15 U.S.C. §§ 719-7190 and the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (Executive Office of the President, Energy Policy and Planning, September 1977), as enacted into law by H. J. Res. 621, Pub. Law No. 95-108 (November 2, 1977). The Commission, by an order issued December 16, 1977 in Docket No. CP78-123, *et al.*, issued conditional certificates of public convenience and necessity to construct and operate the ANGTS.

[4] Administrative Order No. 4, at 3.

Report on Results of Audit of Expenditures by Partners of the Northern Border Pipeline Co. Which Were Incurred Prior to the Formation of the Partnership on March 9, 1978

[Docket No. CP78-124]

March 1981, Division of Audits, Office of Chief Accountant, Federal Energy Regulatory Commission

Introduction

This is the fourth in a series of reports on the results of audits of expenditures related to the construction of the Alaska Natural Gas Transportation System (ANGTS).[1] The audits and reports are being made pursuant to the directions contained in Administrative Order No. 4, issued April 18, 1979.

The first three reports conveyed the results of the staff's audits of expenditures charged to the *Alaskan section* of ANGTS through December 31, 1979. The findings and recommendations in these three reports are the subject of an Order to Show Cause issued by the Commission on December 15, 1980, in Docket No. CP78-123, *et al.*

This report conveys the results of the staff's audit of pre-partnership expenditures charged to the *Northern Border section (Eastern Leg)* of ANGTS. This audit covered expenditures incurred prior to the formation of the

[1] ANGTS was authorized by the Alaska Natural Gas Transportation Act of 1976 (ANGTA), 15 U.S.C. 719, *et seq.* and the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, as enacted into law, H. J. Res. 621, Pub. L. No. 95-108 (November 2, 1977).

partnership, Northern Border Pipeline Company (NBPC),[3] effective March 9, 1978, for the construction and operation of the Eastern Leg of ANGTS. Amounts charged to the Eastern Leg of ANGTS for pre-partnership expenditures totaled $4,615,582.[3]

Summary

Prior to the formation of the partnership, effective March 9, 1978, for the purpose of construction and operation of the Eastern Leg of ANGTS under a Conditional Certificate for Public Convenience and Necessity issued by FERC on December 16, 1977 (Docket No. CP78–123, *et al.*),[4] substantial sums were expended by two of the four partners, Northern Plains Natural Gas Company (Northern Plains) and Pan Border Gas Company (Pan Border).

The claimed pre-partnership expenditures totaled $4,615,582, consisting of $4,313,352 contributed to the Northern Border Pipeline Study Group (NBPSG), the sponsors of the successful application for the Conditional Certificate of Public Convenience and Necessity issued by FERC; $390,000 for filing fees paid to FERC; $1,952,280 of Allowances for Funds Used During Construction (AFUDC); and credits of $2,040,050 for recoveries made by the parent companies of Northern Plains and Pan Border.

With respect to the pre-partnership expenditures claimed by the partnership, the staff concludes that:

1. *Payments to NBPSG ($4,313,352).*

a. Expenditures of $4,164,110 are properly assignable to the Eastern Leg of ANGTS and are of a nature that would qualify for eventual inclusion in rate base.

b. Expenditures of $149,242 either are not properly assignable to the Eastern Leg of ANGTS or are not of a nature that would qualify for eventual inclusion in rate base and should be disallowed.

2. *FERC Filing Fees ($390,000).*

These expenditures, which represent two partners' share of the filing fees paid to FERC, are properly assignable to the Eastern Leg of ANGTS and are of a nature that would qualify for eventual inclusion in rate base.

3. *Allowances for Funds Used During Construction ($1,952,280).*

The AFUDC amounts were incorrectly computed and will require downward adjustment consistent with the recommendations in this report.

4. *Recoveries by Parent Companies ($2,040,050).*

These credits, which represent partial recoveries of payments to NBPSG and FERC filing fees by the parent companies of two partners, have been appropriately applied to reduce the amounts assignable to the Eastern Leg of ANGTS and the resulting amounts qualified for eventual inclusion in rate base.

5. *Deferred Taxes.*

The parent companies of Northern Plains and Pan Border have already claimed the pre-partnership expenditures as tax deductions [5] for Federal income tax purposes. The staff is proposing that the deferred taxes resulting from this procedure be recorded on NBPC's books to assure that the tax benefits are properly associated with the pre-partnership expenditures in making AFUDC computations, computing Federal income tax allowances, and establishing rate base.

The basis for the conclusions cited above are discussed in the text of this report.

Scope of Audit

The audit covered claimed pre-partnership expenditures of $4,615,582. These expenditures relate to disbursements made by Northern Plains and Pan Boarder for their shares of NBPSG costs and the FERC filing fees. Therefore, it was necessary for the staff to examine the total expenditures incurred by NBPSG of $13,357,336 and the total FERC filing fees of $1,170,000 to determine whether the partners' claimed expenditures were properly assignable to the Eastern Leg of ANGTS and eligible for eventual inclusion in NBPC's rate base.

The audit included an examination of the accounting and other records, to the extent deemed necessary, to determine whether:

1. The various financial statements and reports properly reflected the underlying records and documents.

2. The expenditures were adequately documented and supported.

3. The accounting for the expenditures met the requirements of the Uniform System of Accounts and generally accepted accounting principles.

4. The expenditures were properly assignable to the Eastern Leg of ANGTS and were of a nature that would qualify for eventual inclusion in rate base.

Results of Audit

Northern Plains and Pan Border claimed pre-partnership expenditures of $4,615,582, consisting of the following:

	Total	Northern Plains	Pan Border
Payments to NBPSG	$4,313,352	$2,156,676	$2,156,676
FERC Filing Fees	390,000	195,000	195,000
AFUDC	1,952,280	976,140	976,140
Recoveries by Parent Company	(2,040,050)	(673,374)	(1,366,676)
Net Claim	4,615,582	2,654,442	1,961,140

1. *Northern Border Pipeline Study Group (NBPSG) Expenditures.* The principle purpose of the NBPSG was to perform studies and other preliminary activities related to the construction of a natural gas transmission line running from the Canadian border to the midwestern United States. The pipeline would transport Alaskan and Canadian natural gas to the midwestern and eastern United States markets.

NBPSG reported expenditures of $13,357,336 and did not capitalize AFUDC. The staff determined that:

a. Expenditures of $12,894,584 were applicable to studies and other preliminary activities related to the future construction of a natural gas transmission line from the Canadian border to the midwestern United States.

These expenditures were found to be adequately documented and supported, directly related to the Eastern Leg of ANGTS, and of a nature that would qualify for eventual inclusion in rate base.

b. Expenditures of $462,752 are either not properly assignable to the Eastern Leg of ANGTS or are not of a nature that would qualify for eventual inclusion in the rate base of NBPC. These expenditures fall into the following categories:

(1) *Cash and Marketable Securities.* Expenditures of $112,434 represent cash and marketable securities against which NBPSG participants still have a claim.

[3] At March 9, 1978, the Northern Border Pipeline Company (NBPC), successor to the Northern Border Pipeline Company (Old Partnership), was composed of four partners, all affiliated with major gas transmission companies: Northern Plains Natural Gas Company (Northern Natural Gas Company), Northwest Border Pipeline Company (Northwest Pipeline Corporation), Pan Border Gas Company (Panhandle Eastern Pipeline Company), and United Mid-Continent Pipeline Company (United Gas Pipeline Company). See Exhibit No. 2.

[3] See Exhibit No. 1.

[4] On April 28, 1980, the Commission transferred the Conditional Certificate to the four member partnership formed effective March 9, 1978, as expanded during 1979 to five partners by inclusion of Trans Canada Border Pipeline, Ltd., an affiliate of Trans-Canada Pipeline, Ltd.

[5] IRS has challenged these claimed tax deductions, but the dispute has not yet been resolved.

These items are not related to the Eastern Leg of ANGTS. These amounts should be accounted for by the NBPSG participants individually.

(2) *Booklet Printing and Press Kit Costs.* Expenditures of $28,000 represent $19,077 paid to a firm to print a booklet entitled "What Happens When a Pipeline Goes Through", and $8,923 paid to another firm to assemble and distribute the "Northern Border Pipeline Press Kits". A review of the booklet and the press kit disclosed that they were intended and used to influence public opinion and the opinion of public officials during the selection process of the project.

The Uniform System of Accounts requires that expenditures of this nature be recorded in Account 426.4, Expenditures for certain civic, political and related activities, a non-utility expense account.

(3) *Expenditures Related to the Unsuccessful Arctic Gas Proposal.* Expenditures of $305,172 represents payments to a firm for environmental and legal work. These expenditures were incurred to: (a) review Alcan Pipeline Company's (Alcan) Alaskan environmental report, (b) prepare comments and technical support materials based upon review of the briefs being prepared by Arctic Gas' legal group and to aid in the preparation for the cross-examination of Alcan's Alaskan witnesses, and (c) provide technical support during the cross-examination of the Alcan witnesses.

Alcan was in direct competition with Arctic Gas to build the *Alaskan* section of ANGTS. The amounts expended relate to Alaskan environmental studies which are not related to the Eastern Leg of ANGTS. Therefore, these expenditures are not properly assignable to the Eastern Leg.

(4) *Professional Accounting Services.* Expenditures of $17,146 represent payments for professional accounting services to analyze expenditures incurred by the Canadian Arctic Gas Study Group to determine the continuing usefulness of these expenditures to ANNGTC. These expenditures related to the unsuccessful Arctic Gas project proposal and have no direct or indirect relationship or benefit to the Eastern Leg of ANGTS. Therefore, these expenditures are not properly assignable to the Eastern Leg.

Application of the findings of our audit of NBPSG expenditures to the dollar amounts recorded on NBPC's books gives the following results:

	Total	Not assignable or eligible for inclusion in rate base	Assignable and eligible for inclusion in rate base
NBPSG Expenditures:			
Cash and Marketable Securities	$112,434	$112,434	
Study Group Project Expenditures	$13,244,902	$350,318	$12,894,584
Total	$13,357,336	$462,752	$12,894,584
Percentage	100.00	3.46	96.54
NBPC Books: Recorded as Construction Work in Progress	$4,313,352	$149,242	$4,164,110

2. *FERC Filing Fees.* NBPSG filed an application with FERC to obtain a Conditional Certificate of Public Convenience and Necessity to build the Eastern Leg of ANGTS. Their application was approved and filing fees associated with the application were $1,170,000. Northern Plains and Pan Border's applicable share of this cost was $390,000.

The staff determined that these expenditures were adequately documented, supported, and properly assignable to the Eastern Leg of ANGTS, and of a nature that would qualify for eventual inclusion in rate base.

3. *Allowance for Funds Used During Construction.* AFUDC was claimed as pre-partnership expenditures by Northern Plains and Pan Border in identical amounts of $976,140 for a total of $1,952,280. No computational recognition was given to NBPSG expenditures and FERC filing fees recovered by the parent companies of Northern Plains and Pan Border.

AFUDC must be recomputed to five effect to NBPSG expenditures and FERC filing fees recovered by the parent companies and any adjustments required as a result of the other findings in this report. Additionally, the recomputation must be consistent with the pertinent provisions of Commission Order No. 31, issued June 8, 1979.

4. *Recovery of Pre-Partnership Expenditures by Parent Companies.* The parent companies of Northern Plains and Pan Border have recovered a significant portion of their NBPSG expenditures and FERC filing fees through billings to customers:

a. *Northern Plains Natural Gas Company.* At March 8, 1978, Northern Plains, through its parent's (Northern Natural Gas Company) annual R&D Tracker filing, has recovered $673,374 of its NBPSG expenditures and FERC filing fees. Northern Plains' pre-partnership expenditures were appropriately credited with $673,374 to give recognition of these recoveries.

b. *Pan Border Gas Company.* At March 8, 1978, Pan Border, through its parent's (Panhandle Eastern Pipeline Company) tariff, had recovered $1,366,676 of its NBPSG expenditures and FERC filing fees.

Pan Border's claimed pre-partnership expenditures were appropriately credited with $1,366,676 to give recognition of these recoveries.

5. *Federal Income Tax Benefits Derived From NBPSG Expenditures and FERC Filing Fees Need to be Associated With Claimed Pre-Partnership Expenditures.* The parent companies of Northern Plains and Pan Border have claimed NBPSG expenditures and FERC filing fees as tax deductions for Federal income tax purposes, thereby reducing their tax liabilities for prior years. This procedure will result in higher tax liabilities in future years (deferred taxes).

NBPC, a partnership, is not a tax paying entity. However, its rates will include allowances for Federal income taxes which will be paid by the individual partners or their parent companies. Such tax allowances should not include any amounts for the higher future tax liabilities resulting from the parent companies' prior use of the tax benefits associated with costs capitalized as part of this project. Accordingly, to assure this result, staff believes that the tax benefits already realized by the parent companies (represented by deferred taxes) should be recorded on the books of NBPC.

In addition, the deferred tax balances represent a reduction in the net cost of the pre-partnership expenditures. The staff believes that this reduction in costs should be reflected in NBPC's AFUDC computations during the construction period and in NBPC's rate base during the period of operations by reducing the base for such computations by the deferred tax balances related to the pre-partnership expenditures.

Recommendations

The staff recommends that:

1. $4,164,110 of NBPSG expenditures be allowed as charges properly assignable to the Eastern Leg of ANGTS and be determined as qualifed for eventual inclusion in the rate base of NBPC.

2. $149,242 of NBPSG expenditures be disallowed as charges properly assignable to the eastern Leg of ANGTS and qualifed for eventual inclusion in the rate base of NBPC.

3. $390,000 in FERC filing fees be allowed as charges properly assignable to the Eastern Leg of ANGTS and be determined as qualified for eventual inclusion in the rate base of NBPC.

4. $1,952,280 of AFUDC be recomputed to give effect to: (a) NBPSG expenditures and FERC filing fees partially recovered by parent companies, (b) adjustments resulting from this audit, and (c) Commission Order No. 31.

5. $2,040,050 of recoveries by parent companies be determined to be proper deductions from pre-partnership expenditures otherwise found qualified for eventual inclusion in the rate base of NBPC.

6. The deferrred taxes arising from Northern Plains and Pan Border's parent companies' use of pre-partnership expenditures as deductions for Federal income tax purposes be recorded on NBPC books.

Exhibit No. 1.—*Northern Border Pipeline Company Pro Forma Balance Sheet as of Mar. 8, 1978, With Staff Adjustments Thereto*

	Pro forma balance 3-8-78	Staff adjustments	Adjusted balance 3-8-78
ASSETS			
Construction Work in Progress:			
Payments to NBPSG	$4,313,352	($149,242)	$4,164,110
FERC Filing Fees	390,000		390,000
Allowance for Funds Used During Construction	1,952,280		1,952,280
Amounts Recovered by Parent Companies	(2,040,050)		[1] (2,040,050)
Total Assets	4,615,582	(149,242)	4,466,340
PARTNERS' EQUITY			
Northern Plains Natural Gas Company	2,654,442	(74,621)	2,579,821
Pan Border Gas Company	1,961,140	(74,621)	1,886,519
Northwest Border Pipeline Company			
United Mid-Continent Pipeline Company			
Total Partners' Equity	4,615,582	(149,242)	4,466,340

[1] Subject to recalculation, as recommended in the text of this report.

Exhibit No. 2.—Background Data, The Northern Border Pipeline Study Group and Northern Border Pipeline Company Partnerships

Northern Border Pipeline Study Group (NBPSG) was formally organized by a Joint Research and Feasibility Study Agreement dated January 26, 1973. The principal purposes of the NBPSG were to: (1) determine the feasibility of the construction and operation of a natural gas pipeline project to transport gas produced at Prudhoe Bay, Alaska, from locations on the border between Canada and the United States to interconnections with existing gas pipeline systems in the east and midwest in the United States; (2) prepare such studies, exhibits, and other data necessary for the filing of applications with government agencies; and (3) file and prosecute such applications.

Participants in the NBPSG and payments made through March 8, 1978 were as follows:

Participating company	Date withdrawn	Payments through 3-8-78
Columbia Gas Transmission Corporation		$2,156,676
Michigan Wisconsin Pipeline Company		2,156,676
Natural Gas Pipeline Co. of America		2,156,676
Texas Eastern Transmission Corporation		2,156,676
Consolidated Natural Gas Company	10-14-73	160,423
Transcontinental Gas Pipeline Corp.	12-09-73	256,857
Northern Natural Gas Company	05-01-78	2,156,676
Panhandle Eastern Pipeline Company	05-01-78	2,156,676
Total Payments to NBPSG		13,357,336

As a direct result of the Joint Research and Feasibility Study Agreement, another entity, the Northern Border Pipeline Company (NBPC) (Old Partnership) was formed on April 15, 1974.

NBPSG represented the NBPC (Old Partnership) in applications with government agencies in the United States. As a result of these applications, NBPC (Old Partnership) was awarded a Conditional Certificate of Public Convenience and Necessity by FERC for construction of the Eastern Leg of the ANGTS on December 16, 1977.

The NBPC (Old Partnership) was comprised of affiliates of the same companies that participated in the NBPSG, except that two NBPSG participants (Consolidated Natural Gas Company and Transcontinental Gas Pipeline Corp.) withdrew from NBPSG in 1973 and did not become members of the Old Partnership.

The only financial activity of the Old Partnership was the payment of the FERC filing fees as follows:

Old partnership member	Affiliated gas pipeline company	Contribution for FERC filing fees
Columbia Alaskan Gas Transmission Corp.	Columbia Gas Transmission Corporation.	$195,000
American Natural Gas Arctic Company.	Michigan Wisconsin Pipeline Company.	195,000
NANBCO Inc.	Natural Gas Pipeline Co of America.	195,000
Northern Plains Natural Gas Company.	Northern Natural Gas Company.	195,000
Pan Border Gas Company.	Panhandle Eastern Pipeline Company.	195,000
TETCO Three, Inc.	Texas Eastern Transmission Corp.	195,000
Total FERC filing fees through 3-8-78.		1,170,000

During 1978, NBPC (Old Partnership) was reorganized into NBPC (new Partnership) effective March 9, 1978. The purpose of the new NBPC was to build and operate the pre-build portion of the Eastern Leg of the ANGTS to effectuate the delivery of Canadian gas and to later expand the pipeline for the transportation of Alaskan gas.

The New Partnership consisted of two of the Old Partnership members (Northern Plains Natural Gas Company and Pan Border Gas Company) plus two new companies, United Mid-Continent Pipeline Company (an affiliate of United Gas Pipeline Company) and Northwest Border Pipeline Company (an affiliate of Northwest Pipeline Corporation).

The four other active members of the NBPSG and the Old Partnership did not wish to participate in the pre-build activity. In connection with this development, the Joint Research and Feasibility Study Agreement for NBPSG and the Old Partnership Agreement was amended in 1978 to provide as follows:

1. The Old Partnership was terminated.

2. The NBPSG shall transfer, assign and release to the new NBPC all rights and interests granted by the Presidential Decision and FERC designating Northern Border or its successor the conditional certificate to construct and operate in the United States the transportation System.

3. The four remaining members of the NBPSG and the Old Partnership not desiring to participate in the prebuilding retain the right to either transfer or sell their interest in the NBPSG assets to the New Partnership. In the event pre-building does not occur, this election must take place when the Management Committee of the New Partnership notifies the NBPSG that it will not proceed with pre-building. If pre-building does occur, this election must take place at commitment date for the construction of the additional facilities required to transport Alaskan gas. Each of the four Study Group partners which did not participate in pre-building will have the right to subscribe and contribute up to 7.5% of the additional equity funds required for the additional facilities.

Report on Results of Audit of Expenditures by the Northern Border Pipeline Company Which Were Incurred From March 9, 1978, Through December 31, 1979

[Docket No. CP78-124]

March 1981, Division of Audits, Office of Chief Accountant, Federal Energy Regulatory Commission

Introduction

This is the fifth in a series of reports on the results of audits of expenditures related to the construction of the Alaska Natural Gas Transportation System (ANGTS).[1] The audits and reports are being made pursuant to the directions contained in Administrative Order No. 4, issued April 18, 1979.

The first three reports conveyed the results of the staff's audits of expenditures charged to the *Alaskan section* of ANGTS through December 31, 1979. The findings and recommendations in these three reports are the subject of an Order to Show Cause issued by the Commission on December 15, 1980, in Docket No. CP78-123, *et al.*

The fourth report conveyed the results of the staff's first audit of expenditures charged to the *Northern Border section (Eastern Leg)* of ANGTS. The report covered expenditures incurred prior to the formation of the partnership, Northern Border Pipeline Company (NBPC), effective March 9, 1978, for the construction and operation of the Eastern Leg of ANGTS. Amounts charged to the Eastern Leg of ANGTS for pre-partnership expenditures totaled $4,615,582. In the report, the staff recommended the disallowance of $149,242 of the total claimed pre-partnership expenditures and the recomputation of the Allowances for Funds Used During Construction (AFUDC) for which $1,952,280 was claimed.

This report conveys the results of the staff's audit of partnership expenditures charged to the Eastern Leg of ANGTS for the period March 9, 1978 through December 31, 1979. Partnership expenditures charged to the gas plant accounts during this period totaled $8,613,654, including AFUDC of $1,397,955. The staff's findings and recommendations in this report do not cover the $1,397,955 of AFUDC claimed during the period. A part of the AFUDC claimed is based on amounts which are at issue in our first audit report on NBPC. Upon disposition of the audit findings and recommendations in our first report, AFUDC claimed from March 9, 1978 through December 31, 1979, will need to be recomputed and adjusted as appropriate.

Summary

With respect to the partnership's expenditures claimed during the period March 9, 1978 through December 31, 1979 ($7,215,699, exclusive of AFUDC), the staff concludes that all such expenditures are properly assignable to the Eastern Leg of ANGTS and are of a nature that would qualify for eventual inclusion in rate base.

Scope of Audit

The audit covered claimed partnership expenditures charged to the gas plant accounts totaling $7,215,699, exclusive of AFUDC, for the period March 9, 1978 through December 31, 1979.

The audit included an examination of the accounting and other records, to the extent deemed necessary, to determine whether:

1. The various financial statements and reports properly reflected the underlying records and documents.
2. The expenditures were adequately documented and supported.
3. The accounting for the expenditures met the requirements of the Uniform System of Accounts and generally accepted accounting principles.
4. The expenditures were properly assignable to the Eastern Leg of ANGTS and were of a nature that would qualify for eventual inclusion in rate base.
5. The other accounting and reporting regulations and requirements of the Natural Gas Act, the Decision, and the Certificate of Public Convenience and Necessity were complied with.
6. The policies, procedures, and controls appear adequate to ensure the efficient and economic construction of the project.

Results of Audit

Northern Border Pipeline Company claimed expenditures of $7,215,699, excluding AFUDC. With respect to these expenditures, the staff has determined that:

All expenditures were for preliminary activities related to construction of the Eastern Leg of ANGTS to effectuate early delivery of Canadian gas from Alberta, Canada, and later to expand the system for the transportation of Alaskan gas. These expenditures are properly assignable to the Eastern Leg of ANGTS and are of a nature that would qualify for eventual inclusion in NBPC's rate base.

Recommendations

The staff recommends that:

1. $7,215,699 of partnership expenditures be allowed as charges properly assignable to the Eastern Leg of ANGTS and be determined as qualified for eventual inclusion in the rate base of the Northern Border Pipeline Company.
2. Upon disposition of the audit findings in our first report on NBPC, AFUDC for the period March 9, 1978 through December 31, 1979, be recomputed and adjusted, as appropriate, consistent with the pertinent provisions of Commission Order No. 31, issued June 8, 1979.

[FR Doc. 81-13770 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[1] ANGTS was authorized by the Alaska Natural Gas Transportation Act of 1976 (ANGTA), 15 U.S.C. 719, *et seq.* and the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, as enacted into law, H. J. Res. 621, Pub. L. No. 95-108 (November 2, 1977).

[Docket No. ID-1953-000]

Robert S. Parker; Application

May 4, 1981.

The filing individual submits the following:

Take notice that on April 13, 1981, Robert S. Parker, pursuant to Section 305(b) of the Federal Power Act, tendered for filing an application for authority to hold the following positions:

Treasurer—Cambridge Electric Light Company; Canal Electric Company; Commonwealth Electric Company

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 §§ 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 May 18, 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. 81-13720 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-187-000]

Public Service Company of New Mexico; Order Granting in Part and Denying in Part Petitions for Rehearing

April 29, 1981.

On March 30, 1981, Public Service Company of New Mexico (PNM) and

Plains Electric Generation and Transmission Cooperative, Inc. (Plains) filed separate applications for rehearing of the Commission order issued on February 27, 1981, in this docket. The challenged order concerned rate increases proposed by PNM for service to five wholesale customers. The rates to four of these customers, including Plains, were tendered as unilateral rate changes. The proposed increase to the fifth wholesale customer, the City of Gallup, New Mexico (Gallup), was submitted pursuant to section 206 of the Federal Power Act, to become effective prospectively.

The February 27, 1981 Commission order, *inter alia*, accepted the proposed rates with some modifications and, except as applied to Gallup, suspended the rates for five months. As to Gallup, the Commission noted that the proposed rates included a Schedule A applicable to service at three existing delivery points and a Schedule B for service expected to commence at a fourth delivery point in February of 1981.[1] The Commission ordered that the rates under both schedules would become effective prospectively only following a Commission order establishing just and reasonable rates.

PNM has applied for rehearing with respect to two aspects of the order. First, PNM requests the Commission to reconsider deferring the effectiveness, until a Commission order, of increased rates proposed in Schedule B for service to the fourth Gallup delivery point. In support of its request, PNM states that its filing neglected to identify the differences in services provided under Schedules A and B. Under Schedule A, service is provided pursuant to a contract which the Commission previously determined was subject only to prospective change.[2] On the other hand, Schedule B service is provided under a contract which specifically provides for unilateral rate changes under section 205 of the Act. In fact, in Docket No. ER80-313, PNM filed rates for service under Schedule B which the Commission accepted for filing as permissible unilateral changes.[3]

PNM concludes that the Commission should have treated the Schedule B rates as a unilateral change and should have suspended these rates, if at all, for one day. Accordingly, PNM requests that the rates for this service become effective, subject to refund, at the time this service commences.

We note that the Federal Power Act (Section 205(d)) requires a utility to state plainly the time when a rate change will go into effect (absent Commission action). We further note that it appears to be a minimal burden on a company seeking higher rates to state the intended date of the rate increase. The requirement to state the proposed effective date of a rate change is not a mere technicality. As acknowledged by PNM, its rate filing erroneously asked that the Commission treat rates for all service to Gallup in the same manner, and specifically requested that the proposed rates for such service be made effective prospectively following a Commission order. Important legal consequences flow from the requested effective date, and it is not a matter that the Commission should determine contrary to the language of a company's filing based on a suspicion that the company has made a factual mistake.

We shall treat PNM's request for a different effective date for service to the fourth Gallup delivery point as an amendment to its filing with a filing date of March 30, 1981. The Commission must, therefore, grant waiver of the statutory notice requirement to permit a proposed effective date less than 60 days after filing.

In this instance, in view of all of the circumstances, including the previously ordered five month suspension, we find good cause to grant waiver. Apart from PNM's omission, there appears to be no substantive reason to require a different effective date for service to the new Gallup delivery point than for the remaining PNM customers whose rates can be increased unilaterally. Thus, for the reasons stated in our earlier order, we shall suspend the Schedule B rate for five months from March 1, 1981, to become effective thereafter on August 1, 1981, subject to refund. However, we put this company and others on notice that the statutory command to plainly state the date when a utility proposes that a rate change will go into effect is a requirement which must be met; and that the consequences of failure to meet it will not necessarily be mitigated in the future by the granting of a waiver of notice.

PNM next requests reconsideration of the Commission's decision to exclude ADITC from PNM's capital structure. PNM acknowledges that this treatment is fully consistent with Commission precedent, but the company notes that the Commission's decision on this point is currently on appeal before the United States Court of Appeals for the District of Columbia Circuit in consolidated Dockets 80-1200 and 80-1424, *Public Service Company of New Mexico* v. *Federal Energy Regulatory Commission*. PNM requests reconsideration of the Commission's decision in this docket "in light of the settlement agreement in Docket Nos. ER77-464, *et al.*, and the provision therein that ADITC be included in PNM's capital structure pending the outcome of the appeal."[4] PNM concludes that the Commission in this docket may fully enforce its policy position by carrying out the terms of the settlement agreement. Additionally, PNM concludes that if the Commission denies rehearing on the ADITC issue, PNM would be compelled to seek appellate review of the orders in this proceeding. According to PNM, this would result in unnecessary burdens on PNM, its customers, and the Commission.

We do not find the company's arguments concerning the prior settlement agreement or additional appellate litigation persuasive. With respect to the settlement agreement in Docket Nos. ER77-464, *et al.*, which was quoted, in part, in our February 27, 1981 order, we believe that the pertinent language fails to specify clearly whether the intent of the parties was for PNM (1) to "file" rates including ADITC in capitalization without protest by the affected customers, or (2) to "collect" such rates pending the outcome of the ongoing appeal. Such a distinction easily could have been reflected in the agreement. Moreover, as noted in our prior order, even assuming that the settlement language was interpreted as suggested by PNM, the Commission, unlike the parties, is not bound to adopt that approach. Concerning the ADITC issue, we find no compelling reason to reverse our prior decision.

In its application for rehearing, Plains requests the Commission to reconsider its denial of Plain's motion to summarily reject PNM's proposed rates. As support for its request, Plains repeats its previous argument that PNM's filing will allow the company to overcollect approximately $1.1 million.

According to Plains, this overcollection results from an inconsistency between the filed cost of service and the projected revenues PNM would collect under the proposed rates. Specifically, Plains argues that in the cost of service calculations, PNM divided its demand-related costs by one set of demand units (2415 kW) to derive the unit rate. However, PNM then

[1] As of the date of PNM's application for rehearing, the anticipated commencement of service at the new delivery point was early April, 1981.

[2] *Public Service Company of New Mexico*, Docket No. E-9454 (orders issued July 31, 1975 and September 27, 1975), *aff'd* 557 F.2d 227 (10th Cir. 1977).

[3] *See, Public Service Company of New Mexico*, Docket No. ER80-313, order issued May 30, 1980, mimeo. at 5.

[4] PNM's application for rehearing, mimeo at 4.

multiplied the unit rate by a higher number of demand units (2475 kW) to determine the projected revenues. To avoid a potential over-collection of revenues, Plains requests that PMN should be required to refile its unit charges reflecting the higher number of billing demand units.

Upon reconsideration, we believe that there is an inconsistency between the bases used by PNM to calculate its cost of service and to calculate its projected revenues. To remedy this inconsistency, we shall direct PMN to refile its projected revenues, Statement M, page 10, to reflect the same demand units used to calculate its cost of service.[5]

However, we reject Plain's request to summarily require PMN to use the higher billing determinants to calculate its cost of service. We find that this part of PNM's filing substantially complies with the Commission's filing requirements,[6] and represents an issue more appropriately resolved at hearing. We are unable to conclude as a matter of law that PNM lacked a substantial basis for employing the lower demand units in calculating its cost of service. The demand units which PNM employed appear to be the total contract reserve demand for the four wholesale customers. Use of the total contract reserve demand for cost of service purposes appears to be consistent with the agreement reached by PNM and these wholesale customers in Docket Nos. ER77-464, *et al.*

The Commission orders:

(A) The applications for rehearing filed by PNM and Plains are hereby granted in part and denied in part as set forth in this order.

(B) Within thirty (30) days of the issuance of this order, PNM shall file a revised Statement M in accordance with the instructions set forth in this order.

(C) PNM's proposed Schedule B rates for service to the fourth Gallup delivery point are hereby suspended for five months from March 1, 1981, to become effective on August 1, 1981, subject to refund.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

[5] We shall also direct PNM to refile Statement M, page 6, which also erroneously uses 2475 kW to calculate the revenues which the company would receive under existing rates.

[6] *See, Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-13752 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1943-000]

J. James Tasillo, Jr.; Application

May 4, 1981.

The filing individual submits the following:

Take notice that on April 13, 1981, J. James Tasillo, Jr., pursuant to Section 305(b) of the Federal Power Act, tendered for filing an application for authority to hold the following positions:

Vice President—Cambridge Electric Light Company; Canal Electric Company; Commonwealth Electric Company

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 or 1.10). All such petitions or protests should be filed on or before May 18, 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. 81-13704 Filed 5-5-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP74-20-008, etc.]

United Gas Pipe Line Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

May 1, 1981.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 15, 1981. Copies of the respective filings are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

Appendix

Filing date	Company	Docket No.	Type Filing
Dec. 8, 1980	United Gas Pipe Line Company	RP74-20-008	Report.
Apr. 13, 1981	Tennessee Gas Pipeline Company	RP81-44-001	Report.
Apr. 13, 1981	Transcontinental Gas Pipe Line Corporation.	RP77-108	Report.
Apr. 15, 1981	Columbia Gas Transmission Corporation	RP76-94, *et al.*	Report.
Apr. 15, 1981	Midwestern Gas Transmission Company	RP80-23-008	Report.
Apr. 16, 1981	Consolidated Gas Supply Corporation	RP72-157-042	Report.
Apr. 20, 1981	Union Light, Heat & Power Company	RP80-115-003	Report.

[FR Doc. 81-13728 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4336-000]

Vale-Oregon Irrigation District; Application for Preliminary Permit

May 1, 1981.

Take notice that Vale-Oregon Irrigation District (Applicant) filed on March 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. 4336 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. Robert D. Butler, Swan, Butler and Looney, P.C., P.O. Box 430, Vale, Oregon 97918. 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; (2) a powerhouse having a capacity of 2 MW located adjacent to the stilling basin of the Water and Power Resources Service's existing Agency Valley Dam; and (3) a transmission line approximately 2½ miles long.

The Applicant estimates that the average annual energy output would be 5,200 MWh.

Purpose of Project—Project energy would be sold.

Proposed Scope and Cost of Studies Under Permit—Applicant proposes to conduct a detailed feasibility study including technical, economic, environmental, and financial analysis. Applicant estimates the costs of conducting its studies at $123,000.

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 Cascade Waterpower Development Corporation's Project No. 3445 filed on September 8, 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 June 4, 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. 4336. 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. 81-13733 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-98-001]

Valley Gas Transmission, Inc.; Tariff Filing

May 1, 1981.

Take notice that on April 22, 1981, Valley Gas Transmission, Inc. (Valley) tendered for filing, pursuant to the Commission's March 16, 1981 Letter Order accepting and approving a Stipulation and Agreement in the above-listed docket, the following tariff sheets to Valley's FERC Gas Tariff Original Volume No. 1:

Substitute Eighteenth Revised Sheet No. 2A
Substitute Nineteenth Revised Sheet No. 2A
Substitute Twentieth Revised Sheet No. 2A

Valley states that following the Commission's acceptance of the tendered tariff sheets the pipeline will make the appropriate refunds, pursuant to the Commission's March 16, 1981 Letter Order. In addition, Valley requests that the Commission grant waiver of any applicable regulation as necessary to facilitate this compliance filing.

Any person desiring to be heard or to protest said filing 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 §§ 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 May 15, 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 filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-13729 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1945-000]

Richard G. Velte; Application

May 4, 1981.

The filing individual submits the following:

Take notice that on April 13, 1981, Richard G. Velte, pursuant to Section 305(b) of the Federal Power Act, tendered for filing an application for authority to hold the following positions:

Vice President—Cambridge Electric Light Company; Canal Electric Company; Commonwealth Electric Company
Director—Canal Electric Company

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 §§ 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 May 18, 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. 81-13768 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-390-000]

Washington Water Power Co.; Tender of "Letter Agreement"

April 30, 1981.

The filing company submits the following:

Take notice that on March 30, 1981, The Washington Water Power Company (Washington) tendered for filing copies of a service schedule applicable to what Washington refers to as a "Letter Agreement" between Washington and Portland General Electric Company, which applies to the sale of energy from Washington's portion of the Centralia coal-fired steam generating plant or from purchases made from other utilities by Washington. This agreement shall remain in effect until terminated by either party.

Washington requests that the requirements of prior notice be waived and the effective date be made retroactive to January 1, 1981, adding that there would be no effect upon purchasers under other rate schedules.

Any person desiring to be heard or to protest said filing 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 §§ 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 May 6, 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 filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-13731 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1949-000]

John A. Whalen; Application

May 4, 1981.

The filing individual submits the following:

Take notice that on April 13, 1981, John A. Whalen, pursuant to Section 305(b) of the Federal Power Act, tendered for filing an application for authority to hold the following positions:

Comptroller—Cambridge Electric Light Company; Canal Electric Company; Commonwealth Electric Company

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 or 1.10). All such petitions or protests should be filed on or before May 18, 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. 81-13766 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1952-000]

William F. Burt; Application

May 4, 1981.

The filing individual submits the following:

Take notice that on April 13, 1981, William F. Burt, pursuant to Section 305(b) of the Federal Power Act, tendered for filing an application for authority to hold the following positions:

Director—Connecticut Yankee Atomic Company; Maine Yankee Atomic Power Company; Vermont Yankee Nuclear Power Corp.; Yankee Atomic Electric Company

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 §§ 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 May 18, 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. 81-13732 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1951-000]

William R. Smith; Application

May 4, 1981.

The filing individual submits the following:

Take notice that on April 13, 1981, William R. Smith, pursuant to Section 305(b) of the Federal Power Act, tendered for filing an application for authority to hold the following positions:

Vice President—Cambridge Electric Light Company; Canal Electric Company; Commonwealth Electric Company
Director—Canal Electric Company

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 §§ 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 May 18, 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. 81-13730 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4060-001]

Willwood Irrigation District; Application for Preliminary Permit

May 1, 1981.

Take notice that Willwood Irrigation District (Applicant) filed on March 9, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for proposed Project No. 4060 to be known as Willwood Dam located in Shoshone River in Park County, Wyoming. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Neil E. Earhart, Commissioner—Chairman of Power Committee, Willwood Irrigation District, P.O. Box

982, Powell, Wyoming 82435. 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 proposed powerhouse containing two generating units rated at 1.85 MW each; (2) proposed 7-foot diameter penstock; (3) proposed 34.5-kV or 69-kV transmission lines; and (4) appurtenant facilities. Applicant would utilize an existing dam owned by the Water and Power Resources Service, the U.S. Department of the Interior, and the Applicant's facilities would be located on U.S. lands.

The Applicant estimates that the average annual energy output would be 13.6 GWh.

Purpose of Project—Power produced at the project would be sold to either the Water and Power Resources Service, the Willwood Light and Power Company, or the Consumer Light and Power Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 24 months. During this time studies would be conducted to determine the engineering, economic, and environmental feasibility of the project, along with applying for DOE funds and preparing an application for FERC license. In addition, Federal, State, and local government agencies would be consulted to determine the environmental effects of the project. Applicant estimates the cost of the studies would be $46,000.00.

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, 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. 3576, filed on October 16, 1980, under 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 June 4, 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. 4060. 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, 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. 81-13754 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4399-000, Project No. 4411-000, Project No. 4420-000]

Yuma County Water Users Association; Notice of Applications for Preliminary Permit

May 1, 1981.

Take notice that Yuma County Water Users Association (Association), City of McFarland (City), and Imperial Irrigation District (District) each filed on March 23, 1981, March 24, 1981, and March 25, 1981, respectively, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. Sections 791(a)–825(r)] for proposed Projects Nos. 4399, 4411, and 4420, respectively, to be known as the Siphon Drop Power Project to be located on the U.S. Water and Power Resources Service's (WPRS), Yuma Main Canal and the All American Canal in Imperial County, California. The applications are on file with the Commission and are available for public inspection. Correspondence with the Association should be directed to: Mr. Jim Cuming, President, Yuma County Water Users Association, P.O. Box 708, Yuma, Arizona 85364. Correspondence with the City should be directed to: Mr. Chris Kirkman, P.O. Box 707, Solana Beach, California 92075. Correspondence with the District should be directed to: Mr. Donald Twogood, General Manager, Imperial Irrigation District, 333 East Main Street, Imperial, California 92251. 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—Each of the proposed projects would consist of: (1) an intake structure; (2) a penstock; (3) a powerhouse to contain one generating unit with a rated capacity of 2 MW; and (4) a transmission line. The City estimates that the average annual energy output would be 13.2 million kWhs. The Association and the District each estimate that average annual energy output would be 12 million kWhs.

Purpose of Project—The Association would use a major portion of the energy generated by the project for its drainage and pumping requirements. Any remaining energy would be offered for sale to WPRS. The City proposes to sell its project energy to the Imperial Irrigation District or to wheel the power to the City for its own use. The District proposes to use the project energy within its electrical service area.

Proposed Scope and Cost of Studies Under Permit—Each Applicant seeks a

preliminary permit to prepare a definitive project report that would include engineering, economic, and emvironmental data. The City seeks a 12-month preliminary permit. The Association and the District each seek a 24-month preliminary permit. The City estimates that the cost of studies would be about $63,000. The Association and the District each estimated that the cost would be about $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 applications for preliminary permit. (Copies of the 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 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—These applications were filed as competing applications to the Western Water Power's application for Project No. 3524 filed on October 3, 1980, and to the ENERGENICS SYSTEMS, INC.'s application for Project No. 3950 filed on January 9, 1981, 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 the 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 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 June 2, 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 applications for preliminary permit for Projects Nos. 4399, 4411, or 4420. 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 Applicants specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-13771 Filed 5-5-81; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to members of the public $11,777,850.37 in consent order funds. Five escrow accountants were established in settlement of enforcement proceedings brought by the Office of Enforcement in the matters of Fagadau Energy Corporation ($83,985), Coline Gasoline Corporation ($628,480.79), Lewtex Oil and Gas Corporation ($251,384.58), National Helium Corporation ($10,000,000), and Ozona Gas Processing Plant ($814,000).

DATE AND ADDRESS: Comments must be filed on or before June 8, 1981, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW, Washington, D.C. 20461. All comments should display conspicuously a reference to case numbers BEF-0030, BEF-0036, BEF-0033, BEF-0008, and BEF-0046.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Acting Deputy Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461 (202) 653-3137.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order relates to five consent orders. The first consent order was entered into by the Fagadau Energy Corporation (Fagadau) and the Office of Enforcement of the DOE's Economic Regulatory Administration. *See* 44 FR 40545 (1979). The Fagadau consent order was intended to settle all disputes between the DOE and Fagadau regarding Fagadau's first sale prices of natural gas liquids (NGLs) during the period September 1973 through October 1976. Under the terms of the consent order, Fagadau has deposited $83,985 into an escrow account. The second consent order was entered into by Coline Gasoline Corporation (Coline) and the ERA's Office of Enforcement. *See* 45 FR 1672 (1980). The Coline consent order was intended to settle all disputes between the DOE and Coline regarding first sale prices charged by Coline during the period August 19, 1973 to May 31, 1978. Under the terms of the consent order, Coline has deposited $628,480.79 into an excrow account. The third consent order was entered into by Lewtex Oil and Gas Corporation (Lewtex) and the ERA's Office of Enforcement. *See* 44 FR 47396 (1979). The Lewtex consent order was intended to settle all disputes between the DOE and Lewtex regarding Lewtex's first sale prices of NGLs during the period September 1973 through March 1977. Under the terms of the consent order, Lewtex deposited $251,384.58 into an excrow account. The fourth consent order was entered into by National Helium Corporation (National Helium) the Office of Enforcement. *See* 45 FR 9057 (1980); 45 FR 23051 (1980). This consent order was intended to settle all disputes between the DOE and National Helium regarding the firm's first sale prices of NGLs during the period September 1973 through December 1979.

In accordance with the terms of the consent order, National Helium deposited $10,000,000 into an escrow account. The final consent order was entered into by Ozona Gas Processing Plant (Ozona) and the Office of Enforcement. *See* 44 FR 75450 (1979). The Ozona consent order was intended to settle all disputes between the DOE and Ozona regarding first sales prices charged by Ozona during the period September 1, 1973 through December 31, 1974. Under the terms of the consent order, Ozona deposited $814,000 into an escrow account. In all five consent orders, the parties stipulated that the refunds would be distributed by the DOE pursuant to 10 CFR, Part 205, Subpart V.

The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated in order to distribute the contents of the escrow accounts funded by the five firms. The DOE has tentatively decided that Applications for Refund should be accepted from the seven initial purchasers of NGLs from the five firms during the covered period. We have also determined that Applications for Refund should be accepted from downstream purchasers who bought products produced with or from the NGLs sold by Fagadau, Coline, Lewtex, National Helium, or Ozona during the relevant time period. The Proposed Decision and Order states that in order to establish entitlement to some portion of the funds, a purchaser should provide all relevant information pertaining to a claim, including information concerning the date and place of purchase of the relevant product, information concerning whether increased costs incurred were retained or passed through to other purchasers by the claimant, and information reflecting the extent of any injury incurred, including the price and volume of product purchased. The Proposed Decision and Order further provides a mechanism for distributing the funds remaining after all valied claims are paid.

The Proposed Decision and Order states DOE's view that the remainder of the consent order funds should be distributed through the seven initial purchasers to persons or groups of persons who are likely to have suffered any overcharge injury. The DOE therefore solicits proposals from those seven firms which set forth appropriate mechanisms for returning the moneys to the parties who likely paid increased prices as a result of the alleged overcharges. The DOE also invites proposals from other interested parties as well.

It should be pointed out that until final procedures are adopted, no claims for refunds can be accepted. Applications for Refund therefore should *not* be filed at this time. Appropriate public notice, including notice published in the **Federal Register**, will be provided for the filing of claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on May 1, 1981.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 1, 1981.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matters of Fagadau Energy Corporation, Coline Gasoline Corporation, Lewtex Oil and Gas Corporation, National Helium Corporation, and Ozona Gas Processing Plant

Dates of Filing: March 27, 1981, March 13, 1981, February 11, 1981, November 5, 1980, April 27, 1981.

Case Numbers: BEF–0030, BEF–0036, BEF–0033, BEF–0008, BEF–0046.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration's Office of Enforcement (OE) may request the Office of Hearings and Appeals (OHA) to formulate and implement a specially designed process to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with these regulatory provisions, the OE recently filed Petitions for the Implementation of Special Refund Procedures in connection with Consent Orders entered into with Fagadau Energy Corporation (Fagadau), Coline Gasoline Corporation (Coline), Lewtex Oil and Gas Corporation (Lewtex), National Helium Corporation (National Helium), and Ozone Gas Processing Plant (Ozona). Pursuant to the five Consent Orders, these firms agreed to make refunds for alleged violations of the DOE price regulations in the amounts of $83,985 (Fagadau), $628,480.79 (Coline), $251,384.58 (Lewtex), $814,000 (Ozona), and $10,000,000 (National Helium). The funds have been paid to the Department of Energy and are now being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the OHA regarding their final distribution.

I. Background

Fagadau, Coline, Lewtex, National Helium, and Ozona are "gas plant operators" within the meaning of 10 CFR 212.162. During the relevant time periods, they were therefore subject to the Mandatory Petroleum Price Regulations set forth in 6 CFR, Part 150, Subpart L and 10 CFR, Part 212, Subparts E and K. Those regulations governed the maximum prices that could lawfully be charged in the first sales of natural gas liquids and products (NGLs). As a part of its enforcement activities, the OE conducted audits of a number of these firms' natural gas processing plants. The funds involved in these proceedings were obtained as a result of Consent Order agreed to in settlement of alleged overcharges in the sales of NGLs by the five firms.

In its audits of Fagadau's Bluegrove and Marietta gas processing plants, OE found possible violations with respect to first sales of NGLs during the period September 1973 through October 1976. Fagadau sold the output from those plants only to TLOK Marketing (TLOK) during the relevant time period. In order to settle all claims and disputed between Fagadau and the OE regarding the first sales of NGLs Fagadau agreed to pay $83,985 to the DOE. The parties further agreed that this amount would be distributed by DOE pursuant to 10 CFR, Part 205, Subpart V. On July 11, 1979, the Proposed Consent Order was finalized without modification and the DOE published notice in the Federal Register requesting that persons believing that they had a claim to all or a portion of the refund amount file written notification of such a claim to ERA within 30 days of publication. 44 FR 40545 (1979). No claim was filed.

The OE audit of Coline's gas plant revealed possible pricing violations with respect to Coline's first sales of NGLs during the period August 19, 1973 through May 31, 1978. Coline sold NGLs to only two firms during this period: Petrolane Transport Company (Petrolane) and Mobile Oil Corporation (Mobil). According to OE, 73.3 percent fo the total alleged overcharges are attributable to sales to Petrolane, which purchased NGLs from Coline during 25 months of the audit period. The OE further calculated that 26.7 percent of the alleged overcharges occurred in sales to Mobil over an 18-month period. In order to settle all claims and disputes between the parties regarding the firm's first sales of NGLs, Coline and the OE entered into a Proposed Consent Order on November 19 1979. Under the terms of this Consent Order, Coline agreed to pay $628,480.79 to the DOE. The parties further agreed that this amount would be distributed by the DOE pursuant to 10 CFR, Part 205, Subpart V. The Proposed Consent Order was finalized without modification on January 8, 1980. *See* 45 FR 1672 (1980).

In its audits of Lewtex's Olney, Throckmorton, and Graham gas plants, the OE found possible violations with respect to

first sales of NGLs during the period September 1973 through March 177. Lewtex sold NGLs from these three plants to only two companies during this period: Warren Petroleum Company, a wholly-owned subsidiary of Gulf Oil Corporation (Warren) and Enterprise Products, Inc. (Enterprise). On July 31, 1979, the OE and Lewtex entered into a Consent Order under which Lewtex agreed to refund $189,744 plus applicable interest to the DOE in settlement of all claims and disputes between the parties arising from the audits of Lewtex's gas plants. The parties stipulated that the funds were to be distributed by the DOE pursuant to Subpart V proceedings. The terms of the final consent order were published in the **Federal Register** on August 13, 1979. *See* 44 FR 47396 (1979). Interested parties were given an opportunity to comment on the terms of the Consent Order and to submit written notice of potential claims against the refund account. Warren submitted comments identifying itself as a potential claimant.

The audit of National Helium's gas plant in Liberal, Kansas revealed possible overcharges with respect to first sales of NGLs during the period September 1973 through December 1979, in order to settle all claims and disputes between the parties regarding the firm's first sales of NGL's National Helium and the OE entered into a Proposed Consent Order. In that Proposed Consent Order, National Helium agreed to pay $10,000,000 to the DOE. The parties further agreed that this sum would be distributed by the DOE pursuant to Subpart V. Notice of the Proposed Consent Order was published in the **Federal Register** on February 11, 1980. *See* 45 FR 9057 (1980). Interested persons were provided an opportunity to comment on the terms of the Proposed Consent Order and to submit written notice to ERA of potential claims against the settlement funds. In response, Atlantic Richfield Company (ARCO) submitted a claim for the entire $10,000,000 fund. No other comments were received. The Proposed Consent Order was finalized without modification on April 4, 1980. *See* 45 FR 23051 (1980).

The OE's audit of Ozona's gas plant in Crockett County, Texas revealed possible pricing violations with respect to Ozona's first sales of covered NGL products during the period September 1, 1973 through December 31, 1974. In order to settle all claims and disputes between the OE and Ozona regarding the first sales of NGLs, the parties entered into a Consent Order in which Ozona agreed to pay $814,000 to the DOE. The parties further agreed that this amount would be distributed by the DOE pursuant to Subpart V. The terms of the final Consent Order were published in the **Federal Register** on December 20, 1979. *See* 44 FR 75450 (1979). Interested persons were provided an opportunity to comment on the terms of the Proposed Consent Order and to submit written notice of potential claims against the settlement funds. In response, Suburban Propane Gas Corporation (Suburban) identified itself as a first purchaser of products from Ozona and submitted a claim to the refund account. In addition, Growth Energy, Inc. (GEI) identified itself as a downstream purchaser of NGLs from the Ozona plant through Suburban.

The names of the five firms, the amounts involved in the consent orders, and the identities of the first purchasers are summarized in the Appendix to this Proposed Decision and Order.

II. Jurisdiction

With regard to the Fagadau, Coline, Lewtex and National Helium matters, the Office of Hearings and Appeals previously determined that the jurisdictional requirements of Subpart V had been satisfied and therefore asserted jurisdiction over each of these cases in an Interlocutory Order issued on April 6, 1981. See *Office of Enforcement, Economic Regulatory Administration: In the Matters of National Helium, et al.*, 8 DOE ——, No. BRZ-0091 (April 6, 1981). For reasons specified in that decision, we shall also accept jurisdiction over the Ozona case.

III. Authority to Fashion Refund Procedures

In several recent decisions we have examined the OHA's authority to conduct special refund proceedings under Subpart V. *See, e.g., Office of Enforcement*, No. DFF-0006 (February 27, 1981), 46 FR 15320 (1981), (proposed decision) (hereinafter cited as *Vickers*); *Office of Enforcement*, No. BEF-0021 (March 13, 1981), 46 FR 17639 (1981), (proposed decision) (hereinafter referred to as *Alcoa*). Subpart V authorizes the Office of Hearings and Appeals upon request by an enforcement office to fashion special procedures to distribute refunds obtained as part of settlement agreements. The special refund procedures are part of an overall regulatory scheme which is intended to implement several different statutes. Congress provided for the mandatory allocation and pricing of crude oil, residual fuel oil, and refined petroleum products in the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751 et seq. (1976). Natural gas liquids are considered to be petroleum products for the purposes of the EPAA and were therefore subject to the provisions of the DOE price regulations during the periods covered by the consent orders. *Mobil Oil Corp. v. FEA*, 566 F. 2d 87 (Emer. Ct. App. 1977). The enforcement mechanisms for regulations issued under the EPAA were specified in the Economic Stabilization Act (ESA), 12 U.S.C. 1904 note (1970). EPAA, section 5(a), 15 U.S.C. 754(a).

The statutory authority to enforce the regulations governing petroleum allocation and pricing was delegated to the Administrator of the Federal Energy Administration and subsequently to the Secretary of Energy. Federal Energy Administration Act (FEAA), section 5, 15 U.S.C. 765 (1974); Department of Energy Organization Act (DOE Act), section 201(a), 42 U.S.C. 7151(a) (1979). To carry out the statutory mandates, the regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, and the Department of Energy have provided throughout the existence of the price control program for the issuance of remedial orders "requiring a person to cease a violation or to eliminate or compensate for the effects of a violation, or both." 6 CFR 155.81(b) (1973); 10 CFR 205.2 (1974) (defining "remedial order").

In order to implement these statutory and regulatory goals the DOE's enforcement process is designed to accomplish two independent ends: disgorgement of the fruits of a regulatory violation from the wrongdoers, and restitution to persons injured by the regulatory violation. *See generally Vickers*, slip op. at 4. The latter objective—restitution to overcharged persons—furthers the specified EPAA goals of "equitable distribution of * * * refined petroleum products at equitable prices * * * among all users" and "economic efficiency." 15 U.S.C. 753(b)(1) (F), (H).

IV. Proposed Refund Procedures

In view of the objectives expressed in the statutes and regulations discussed above, and the Consent Orders themselves, procedures to be devised in these five cases should, to the maximum extent practicable, provide for the distribution of the refund amounts to parties on whose behalf the settlements were negotiated.

As we stated in *Vickers*, restitution is the primary focus of Subpart V, which authorizes the Office of Hearings and Appeals to formulate and implement a process intended to provide refunds whenever possible to the persons or firms who were injured by overcharges. It offers a means of compensation for many individuals who lack the resources or the financial stake to institute their own private lawsuits under Section 210 of the ESA. The Subpart V process can also be an efficient administrative mechanism for returning overcharges to affected parties without recourse to lengthy and costly court actions. The distribution of funds to overcharged persons should generally take place in two primary ways: (1) payment of funds to persons and firms who file individual applications for refund and prove they are entitled to a portion of the funds held in trust, and (2) payment of funds on behalf of injured persons to entities which can themselves implement restitution which furthers the foregoing purposes. The Subpart V regulations specify that "any remaining funds . . . shall be deposited in the United States Treasury or distributed in any other manner specified in the Decision and Order referred to in § 205.282(c)." 10 CFR 205.288(c).

A. Refunds to Identifiable Purchasers

As a first step, the consent order funds should be distributed to claimants who successfully identify themselves as adversely affected purchasers. The first purchasers in these cases are TLOK, Petrolane, Mobil, Warren, Enterprise, ARCO, and Suburban. They will be afforded an opportunity to file claims regarding the injury that they incurred on account of the alleged overcharges. To the extent that those firms passed on the alleged overcharges to their own customers, they will not have been injured in any direct, monetary way. If, however, they absorbed the price increases rather than passing them through to customers, they will be entitled to receive refunds themselves. In order to qualify for a refund, a first purchaser will be required to demonstrate that during the period covered by the relevant Consent Order it could have kept its prices for NGLs at the same level if it

had experienced a cost reduction equal to the amount of the refund claimed. In order to show this, a firm must demonstrate that at the time it purchased NGLs from Fagadau, Coline, Lewtex, Ozona, or National Helium, it had unrecovered product costs which were at least equal to the amount of the refund claim, and that market conditions would not permit it to increase its prices for NGLs to pass through the higher costs. In addition, it must have maintained a "bank" of unrecovered costs during each month thereafter in order to demonstrate that it did not subsequently recover these costs by increasing its prices. The amount of the refund will be limited to the amount of unrecovered product costs available to the claimant for recovery through price increases. *See Office of Special Counsel for Compliance*, 4 DOE ¶ 82,511 (1979). If the initial purchasers of covered products from the five firms which entered into Consent Orders are able to make these showings, the entire amount of the funds at issue in this proceeding will be disbursed to them. In the event they are unable to make a fully satisfactory showing, they will be entitled to only a portion of the money and the next group of persons who will be entitled to receive a portion of these funds are those firms and individuals who purchased NGLs from the first purchasers.

In order to establish entitlement to a refund, any person identifying itself as an injured party must demonstrate initially that it purchased a specific quantity of products which were produced with or from the NGLs sold by Fagadau, Coline, Lewtex, Ozona or National Helium during the relevant time period. Privity with one of these firms' first purchasers need not be established; evidence need only be presented that the products purchased by the claimants flowed through a chain of distribution from Fagadau, Coline, Lewtex, Ozona, or National Helium. In addition, unless the purchaser is an ultimate consumer, it must demonstrate that it did not pass through to its own customers any cost increases resulting from the alleged overcharges. For example, purchasers who resold the identified products must show that market conditions did not permit them to raise prices charged to downstream customers, and that as a result they were forced to absorb any cost increases incurred. In the absence of that showing, we must conclude that the claimant was not injured in any way by the alleged overcharge. *See Vickers*, slip. op. at 6; *Office of Special Counsel for Compliance*, 4 DOE ¶ 82,511 at 85,043–44 (1979). Refunds to purchasers who establish their entitlement to a refund would be made on a volumetric basis—*i.e.*, the refund would be based on the proportion of NGLs purchased by the applicant to the total amount of NGLs sold from the relevant gas processing plants.

Any purchaser claiming a portion of the refund amount will be entitled to file an Application for Refund pursuant to 10 CFR 205.283. Applications should provide all relevant information pertaining to a claim for refunds of alleged overcharges, including the type of information described above concerning the date and place of purchase, the retention of increased costs, and information reflecting the extent of any injury incurred, including the price and volume of product purchased.

Detailed procedures for filing applications will be provided in a final Decision and Order. Before diposing of any of the funds received from Fagadau, Coline, Lewtex, National Helium, or Ozona, we intend to provide widespread public notice of the distribution process and the opportunity to file claims. This notice will be provided to parties who may wish to request a refund by identifying themselves as adversely affected purchasers. In addition to publishing notice in the **Federal Register**, notice will be provided in trade journals and in the areas in which TLOK, Petrolane, Mobil, Warren, Enterprise, ARCO and Suburban marketed their respective products during the periods covered by the Consent Orders. As a final matter, we note that refund applications filed on behalf of groups of claimants identifying themselves as adversely affected purchasers will be considered. Applications that are submitted on behalf of groups of purchasers will be evaluated on a case-by-case basis as received.

B. Distribution of the Remainder of the Refund Amount

After the claims of parties identifying themselves as adversely affected purchasers of the Fagadau, Coline, Lewtex, Oxona, and National Helium NGLs have been filed and appropriate refund amounts to those purchasers determined, the total funds provided by each firm pursuant to its Consent Order are likely to be diminished but not exhausted. In view of the relatively small sums of money likely to be involved in many ultimate consumer claims, and the improbability that such consumers will possess detailed records regarding the validity of their claims, we anticipate that a showing of refund entitlement can be made by only a limited number of persons. *See Vickers*, slip. op. at 7. The fact that claims to specific refunds may not have been proven, however, does not mean that injury to various parties has not occurred. Rather, the absence of claims for the full amount of the settlement would tend to reflect the difficulty of establishing a valid claim for a portion of the consent order funds.

As discussed above, the remaining amounts should be distributed in accordance with the broadly conceived goals announced in the DOE's enabling legislation and implementing regulations. Consequently, the remaining funds should be distributed to groups of ultimate consumers who were likely to have borne a portion of the higher prices charged by Fagadau, Coline, Lewtex, National Helium, and Ozona. This conclusion was reflected in our recent decision in *Vickers*, in which we proposed to return unclaimed portions of the consent order funds to ultimate consumers through organizations such as public utilities which are required by law to pass through the benefits of any cost reductions to their customers. In that proposed decision we stated our belief that the class of customers of public utilities in the affected area was likely to bear a close relationship to the class of customers who were adversely affected by Vickers' pricing policies. *See Vickers*, slip. op. at 8–10.

However, in *Alcoa* we recognized that the marketing and distribution of NGLs is significantly different from the marketing of motor gasoline through independent retail outlets in a particular geographic region. A significant portion of the NGLs involved in these cases were in all likelihood sold for processing into other types of products such as petrochemicals. These products were probably distributed over an extremely wide geographic area. Moreover, there is nothing contained in the present record that indicates that the impact of any unlawful price increases were confined to an identifiable geographic area.

Under these circumstances, we believe that the first purchasers of the NGLs produced by Gagadau, Coline, Lewtex, National Helium, and Ozona are in a position to provide assistance to the DOE in channeling the remaining Consent Order funds to persons who are most likely to have suffered any overcharge injury. Consequently, we proposed to distribute any funds remaining after payments are made to successful claimants through TLOK, Petrolane, Mobil, Warren, Enterprise, ARCO, and Suburban. We solicit proposals from those seven firms which set forth appropriate mechanisms for returning these moneys to the parties who likely paid increased prices as a result of the alleged overcharges. These plans should identify groups of end-users who were likely to have been adversely affected by the Fagadau, Coline, Lewtex, National Helium, and Suburban price increases. To this end, each firm should take into account its distribution and marketing system and its method of calculating prices during the relevant period. To the extent that product purchases from particular gas plants can be isolated in an appropriate distribution system, refunds should be made to customers who were downstream purchasers of the NGLs covered by the Consent Orders. The plans should also provide, as much as practicable, for a method by which to exclude from participation in this stage of the refund proceeding any purchasers who recovered a portion of the consent order funds during the prior distribution to successful claimants. In developing the foregoing plans, the first purchasers should give paramount consideration to the cost, efficiency and administrative ease of any proposed refund plan. For example, to the extent that the NGLs were used by agricultural producers, the plan may propose to distribute funds through agricultural cooperatives in the affected areas rather than to specific individuals.

Aside from the first purchasers of the Fagadau, Coline, Lewtex, National Helium, and Ozona NGLs, there may be other entities that might wish to submit proposals suggesting either a distribution scheme through which the first purchasers could channel remaining funds to injured parties, or an alternative method of distribution for the unclaimed funds. We invite any party interested in submitting such a plan to do so.

It is therefore ordered that: The $83,985 refund amount supplied by Fagadau, the $628,480.79 refund amount provided by Coline, the $251,384.58 refund amount

proivded by Lewtex, the $10,000,000 refund amount supplied by National Helium, and the $814,000 provided by Ozona will be distributed in accordance with the foregoing Decision.

Appendix

Name of firm	Amount of consent order funds	First pruchasers
Fagadau Energy Corp. (Fagadau).	$83,985	TLOK Marketing.
Coline Gasoline Corp. (Coline).	628,480.79	Petrolane Transport Co.
		Mobil Oil Corp.
Lewtex Oil and Gas Corp. (Lewtex).	251,384.58	Warren Petroleum Co.
		Enterprise Products, Inc.
National Helium Corp. (National Helium).	10,000,000	Atlantic Richfield Co.
Ozona Gas Processing Plant (Ozona).	814,000	Suburban Propane Gas Corp.

[FR Doc. 81-13853 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Floodplain/Wetlands Involvement Determination for the Sterling-Holyoke 115-kV Transmission Line Upgrade Proposal in Logan and Phillips Counties, Colorado

AGENCY: Western Area Power Administration, U.S. Department of Energy.

ACTION: Statement of Findings.

SUMMARY: The Western Area Power Administration (Western) proposes to upgrade approximately 48 miles of the exisitng Sterling-Holyoke 69-kV transmission line in Colorado in order to increase service reliability in conjunction with other utility-owned programs and operations. The proposed action would cross four different wetland classifications within the 100-year floodplain of the South Platte River. Existing transmission structures would be removed and replaced in some of the floodplain/wetlands of the river and some minor changes in structure location would be anticipated. The proposed action is, therefore, a "floodplain action" as defined by DOE regulations in 10 CFR 1022.4(k) and 0022.5(h). Executive Order 11988, "Floodplain Management," requires a finding that the only practicable alternative requires siting in a floodplain. Executive Order 11990, "Protection of Wetlands," requires a finding (1) that there is no practicable alternative to such construction and (2) that the proposed action includes all practical measures to minimize harm to wetlands which may result from such use.

Other than the no action alternative, crossing the South Platte River floodplain/wetlands by means of the proposed action would be unavoidable as there are no practicable alternatives available. A number of alternatives to the proposed action, including the no action alternative, upgrading measures, undergrounding, and rebuilding at present capacity, are presented in the environmental assessment. Except for the no action alternative, implementation of these alternatives would have a similar or greater impact on the South Platte River floodplain/wetlands than that anticipated from the proposed upgrade.

Crossing the South Platte River floodplain/wetlands by means of the proposed action is unavoidable unless the Sterling Substation is moved from its present location to a new site on the east side of the river. However, the benefits of such action are extremely questionable in that the relocation would: (1) Be extremely expensive; (2) still require a crossing(s) of the floodplain/wetlands by extension of other existing lines now entering the Substation from the north and west; and (3) predictably result in even greater overall environmental consequences.

Western would design all structures located within floodplains to withstand any flooding and to conform to all applicable State and local floodplain/wetlands standards. Western would implement steps to minimize harm to floodplain/wetlands including: (1) Revegetation with appropriate native grasses of all areas where soil is bared by construction operations to minimize the potential for erosion and sedimentation; (2) chiseling where necessary to mitigate soil compaction; and (3) avoiding chemcial spillage by filling fuel tanks well away from the watercourse, proper disposal of empty containers, and well-maintained equipment which precludes leakage.

For further information or copies of the floodplain/wetlands assessment contact:

Mr. Peter G. Ungerman, Area Manager, Loveland-Fort Collins Area Office, Western Area Power Administration, P.O. Box 2650, Fort Collins, CO 80522, Telephone: (303) 493-7716.

Mr. Gary W. Frey, Environmental Manager, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, Telephone: (303) 231-1527.

Issued at Golden, Colo., April 28, 1981.

Robert L. McPhail,

Administrator.

[FR Doc. 81-13829 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-01-M

Announcement of Proposed Allocation Criteria for the Marketing of 102 MW of Additional Power and 10 MW of Power to Protect System Diversity, and Announcement of the Application Format for Requesting an Allocation

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Announcement of proposed allocation criteria for the marketing of 102 MW of additional power and 10 MW of power to protect system diversity, and announcement of the application format for requesting an allocation—Central Valley Project, California.

SUMMARY: The Western Area Power Administration (Western) is developing a power marketing plan for power resources marketed by Western's Sacramento Area Office. An integral part of the plan will be the allocation criteria to be used in determining qualified applicants and the amount of each allocation. Western hereby announces the proposed allocation criteria for the marketing of 102 megawatts (MW) of additional power and 10 MW of power to protect system diversity, and announces the application format to be used in requesting an allocation.

Western proposes to market 102 MW as follows: the 46 MW reserved for the Westlands Water District will be marketed on a withdrawable basis; of the remaining 56 MW, 30 MW will be reserved to "firm" renewable resources and cogeneration, and 26 MW will be allocated on a firm basis. An additional 10 MW will be made available to those entities who can shed load during times of Western's total system's simultaneous peak, and can thus contribute to protection of Western's system diversity.

Western proposes to renew existing contracts that expire by April 30, 1985, on substantially the same terms; however, Western has not yet decided as to whether a 40-percent annual average load factor energy limitation or renewal at customer load factor will be applied to the contract rate of delivery (CRD). The decision on which CRD load factor to apply will be made after all comments have been received pursuant to the July 14, 1981, public comment forum.

The contract termination date for all renewed contracts, contracts for power allocated under the 102 MW, and contracts for the 10 MW of power for protection of system diversity is proposed to be July 1, 1994.

The analyses and documentation supporting the reasons for the proposed allocation criteria will be available at the Sacramento Area Office at the time the proposed power marketing plan will be published in a **Federal Register** notice scheduled to be issued in late May 1981. The proposed plan and analyses will also be mailed to all interested parties about 1 week before the June 2, 1981, public information forum at which the plan will be formally presented.

A proposed application format for an allocation request(s) is given below. The format specifies the data to be submitted and need be completed only once as the format is common to all allocation requests.

Comments on the proposed allocation criteria, contract termination date, and the application format should be submitted in writing and/or presented verbally at the July 14, 1981, comment forum. In any event, written comments are due no later than July 27, 1981, to the address given below.

DATES: Applications for power will be accepted from eligible preference entities between August 10, 1981, and September 15, 1981. Applications must be received in the Sacramento Area Office no later than 5 p.m. Pacific daylight time, September 15, 1981, to ensure consideration. Applications will be evaluated by the Administrator based upon adopted allocation criteria, applicable laws, the Administrator's judgment, and the final power marketing plan for the Sacramento Area Office.

A public information forum will be held on June 2, 1981, beginning at 9:30 a.m. in the Mariposa/Sonora Rooms, Holiday Inn—Holidome, 5321 Date Avenue, Sacramento, California. The proposed plan will be made available at this forum. Written comments are due by July 27, 1981.

ADDRESS: For further information concerning the proposed power marketing plan, allocation criteria, application format, the June 2, 1981, public information forum, or the July 14, 1981, public comment forum, contact: Mr. David G. Coleman, Area Manager, Western Area Power Administration, Department of Energy, 2800 Cottage Way, Sacramento, CA 95825 916–484–4251.

Proposed Allocation Criteria: Western proposes to allocate all 102 MW and an additional 10 MW to protect system diversity. Forty-six MW of the 102 MW will be reserved for the Westlands Water District, but will be allocated on a withdrawable basis. The remaining 56 MW will provide 30 MW for renewable resources and cogeneration and 26 MW for firm allocations.

The proposed allocation criteria presented below will, after interested parties' comments are evaluated and considered, be formulated into allocation criteria which will be adopted and published on or about August 3, 1981. Comments are solicited and can be sent to the address previously stated no later than July 27, 1981.

General Criteria: The following criteria shall apply to all applicants seeking allocations from the 102 MW and from the 10 MW to protect system diversity.

1. Only preference entities qualified under Reclamation Law and pertinent statutes, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) can apply.

2. Eligible entities must have been in actual existence and operation as of October 1, 1980.

Reason: The October 1, 1980, date chosen because coincides with the start of the Federal Government's fiscal year and with the initiation and development of the power marketing plan.

3. Applicants currently receiving any firm power from Western are ineligible to receive any allocations from the 102 MW except for allocations from that reserved for renewable resources and cogeneration, and diversity.

Reason: Western's allocation of power to those eligible preference entities who are not currently customers of Western allows for the most widespread use of its power and is in consonance with the intent of section 9(c) of the Reclamation Project Act of 1939.

Allocation Criteria for the 26 MW of Firm Power

1. Greater consideration will be given to those applicants who can demonstrate a contribution to system diversity at the time of the total system's simultaneous peak; i.e., the applicants' peak demands do not tend to coincide with Western's total system's simultaneous peak.

Reason: The protection of system diversity during times of the total system's simultaneous peak is a necessary consideration to protect existing contracts from being adversely affected by possible over-commitment of power resources which could result in subsequent withdrawals of existing allocations.

2. Applicants serving a comparatively large number of residential customers will be given greater consideration to those serving proportionately larger numbers of commercial, industrial, or single-use customers.

Reason: Residental customers are more impacted by high energy costs caused by scarce fuel resources than industrial and commercial customers who generally are more able to absorb energy costs within their production or sales costs.

3. Failure of the contracting parties to come to terms within 1 year of the offer made by Western of an allocation as indicated by nonsignature of the contract by any of the parties, shall cause the offered power to be placed back in the allocation pool.

Reason: Western will offer a contract to each entity who has been allocated power and will negotiate in good faith to reach a mutually acceptable agreement. The purpose of this provision is an administrative criteria designed to maintain the availability of power previously allocated, but which subsequently fails to be subscribed.

Allocation Criteria for the 30 MW of Firm Power for Renewable Resources and Cogeneration:

Western will consider the following types of projects for allocations from the 30 MW.

1. Solar-photovoltaic projects and possibly other types.
2. Wind turbine generators.
3. Geothermal projects.
4. Cogeneration that conserves imported oil or natural gas.
5. Fuel cells using coal-derived fuels or domestic natural gas.
6. Small hydroelectric generators (less than 10 MW nameplate).

The following criteria are proposed:

1. Allocations shall not exceed 10 MW per project.

Reason: Western's research of potential energy sources in its market area indicates a large number of projects that are 10 MW and smaller; some projects such as small hydroelectric projects are less than 1.0 MW. The exact allocation to be granted will depend on the amount of capacity (if any) and energy produced, the ultimate cost of the project, and the negotiated purchase price of power.

2. Projects that receive an allocation may also qualify for Western's usual purchase power contracts for additional excess project energy.

Reason: A two-part contract which covers an allocation made under the renewable resource and cogeneration category and, secondly, which covers the purchase of additional energy output is possible. All projects receiving an

allocation will also be considered eligible for an additional purchase power contract with Western.

3. Applications will be accepted and processed until all 30 MW have been allocated.

Reason: Procedurally, applications will be accepted and processed after September 15, 1981, the closing date for applications to be received in the Sacramento Area Office. After September 15, 1981, Western adopts the "first in time, first in right" concept, provided all other criteria for allocations are met.

4. Failure of the contracting parties to come to terms within 1 year of the offer made by Western of an allocation as indicated by nonsignature of the contract by any of the parties, shall cause the offered power to be placed back in the allocation pool.

Reason: Western will offer a contract to each entity who has been allocated power and will negotiate in good faith to reach a mutually acceptable agreement. The purpose of this provision is an administrative criteria designed to maintain the availability of power previously allocated, but which subsequently fails to be subscribed.

5. The scheduled commercial operation date of any new generation project shall be within 5 years of the date the contract is signed and shall be attested to by a registered professional engineer and verified by Western. Failure of a project to begin commercial operation shall cause the allocated power to revert to the allocation pool. No grace period for an extension of time to the contract shall be afforded. Allocations under the renewable resource and cogeneration provisions shall not become effective until commercial operation of the project.

Reason: Western believes that the 5-year period is a reasonable length of time which recognizes licensing time requirements and which will provide for near-time benefits to the applicant and to Western.

6. Preference will be given to projects that provide energy that is above and beyond that retained to meet the applicant's own demand, and which is made available for sale to Western.

Reason: Western desires to "firm" renewable resources and cogeneration, and at the same time obtain additional energy to help improve its energy deficiency. The concept of the kWh for kWh exchange will be discussed in detail in the proposed power marketing plan. Other approaches may be negotiated as appropriate to each project.

7. Projects that produce dependable capacity and energy will be given preference over nonfirm capacity and energy.

Reason: On a planning and operational basis, dependable capacity and energy enables Western to rely on firm resources to meet its customers' demands. By definition, nonfirm capacity and energy cannot be used for planning purposes.

8. Demonstration projects will be eligible for consideration for an allocation.

Reason: Although Western believes that the cost and risks associated with demonstration projects should be borne by the project proponent and by other agencies who have a direct mission in the research and development of new and innovative technologies, such projects will still be considered eligible for an allocation.

9. The cost of the project's energy (including any wheeling and interconnection costs) must be competitive with other sources of power available to Western.

Reason: Western is committed to acquiring economical power for the benefit of all of its customers.

10. Preference will be given to those projects that complement the seasonal output of the Central Valley Project's (CVP) generation system.

Reason: Generation resources which provide power during the low generation periods (winter and fall) of the CVP system will allow Western to better utilize its resources.

Allocation Criteria for the 10 MW for Protection of System Diversity

The following criterion is proposed:

1. Applicants who are ready, willing, and able to shed load during those times approaching Western's total system's simultaneous peak will be eligible to contract for a higher contract rate of delivery (CRD). Actual amounts to be load shed and compensatory CRD's are to be negotiated on a case-by-case basis.

Allocation Criteria for the 46 MW of Westlands Water District

Withdrawable Power: The criteria proposed previously under the 26 MW of firm power shall also apply to the allocation of the 46 MW. The terms for the withdrawal of power shall be that adopted in the final power marketing plan.

Contract Period for the 102-MW Allocation and 10-MW Diversity

Allocation: The contract termination date for all contracts for allocations from the 102 MW and the 10 MW to protect system diversity is proposed to be July 1, 1994.

Previously Filed Applications: Any applications filed prior to the date of this **Federal Register** notice for the 102 MW or any other power not currently under contract will not be considered by Western.

Renewal of Contracts Expiring Between 1981 and 1985: Western proposes to renew contracts expiring by April 30, 1985, on substantially the same CRD terms; however, Western is still studying the option of applying a 40-percent average load factor energy limitation rather than renewing at the customer's load factor. The right to modify other contract terms shall be reserved and will be subject to negotiation of each expiring contract being renewed. The contract termination date is proposed to be July 1, 1994; by this date, Western will have been able to reconsider, review, and possibly reallocate approximately 754 MW (642 MW sold under expiring contracts plus the 10 MW for diversity plus the 102 MW) of power sold under contracts.

Western commits itself to the timely renewal of expiring contracts. To allow for reasonable and foreseeable delays, service will be provided until that time when the contract is renewed, but for no more than 1 year from the expiration date. Failure to renew a contract within the 1-year grace period will relegate the CRD to be used for further protection of system diversity. If adequate system diversity exists, then the CRD shall be marketed subject to General Criteria 1 and 2 and criteria 1, 2, and 3 listed under "Allocation Criteria for the 26 MW of Firm Power."

Reason: Western will first protect its total system's simultaneous peak from being exceeded. If, however, adequate system diversity exists, then Western will make the power available as it was originally contracted—as a firm-power allotment.

Application Format for an Allocation Request(s): The proposed application format is specified below. The cover sheet should be done as follows:

Western Area Power Administration, Sacramento Area Office—Application for Power Allocation

Applicant's Name _____
Official Contact Person _____
Address _____
_____
_____
Telephone ( ) _____
Firm Allocation of ___ NW
Renewable Resource/Cogeneration Allocation of ___ MW
Westlands Withdrawable Allocation of ___ MW
Diversity Allocation of ___ MW
The following to be completed by Western:
Registered Mail Receipt Number: _____

Date Received: _____
Time: _____
Signed: _____
Title: _____

The type of information to be submitted is detailed below. Most of the data categories appeared previously in the March 31, 1981, **Federal Register** notice (46 FR 19808), titled "Applicant Profile Data." However, some new data requirements are being proposed.

The information should be submitted in the sequence listed below. If information is "not available," so indicate. If an area of data requested is "not applicable," so indicate.

Western does not require the application to be spiral or perfect bound or with hard cover. Six copies, typed, with the cover sheet as specified previously, should be submitted by registered mail to the address stated above.

The burden of ensuring consistency of the content of all six copies rests with the applicant. Errors in data or missing pages are not the responsibility of Western.

The data proposed to be included in the application are enumerated below.

Applicant Profile Data

1. *Eligibility.* A statement of eligibility as a preference customer under Reclamation Law and pertinent statutes, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)).

2. *Organization.* A brief description of the organization that will interact with Western on contracts and billing matters.

3. *Loads.* a. Number and type of customers served: residential, commercial, industrial, military base, and agricultural.

b. Maximum demand and energy use for 1978, 1979, and 1980 versus contract rate of delivery (CRD).

c. Twenty-four-hour load curves for winter and summer peak days in 1978, 1979, and 1980.

d. 1978–1980 average annual and monthly load factors for your total system. Projected load factors, if available, for the 1981–1994 period.

e. Projected monthly capacity and energy demand, 1981–1994. Indicate forecasting method and basic assumptions.

4. *Resources.* a. List of operating generating resources, if any—capacity, location, and 1980 availability factor.

b. Percent of total supply received from Western, 1981–1994.

c. Status of power supply contracts with parties other than Western.

5. *Transmission.* a. Voltage of service required and possible delivery points.

b. A brief description of the type of transmission service being requested of Western—direct or wheeled.

6. *Renewable Resources and Cogeneration Projects.* a. List of future firm and planned resources, if any—capacity, location, scheduled operation date, and expected annual average lifetime capacity factor.

b. Estimated busbar cost (cents/kWh) of each project in 1980 dollars.

c. As appropriate, proposed plans for wheeling to Western's system.

7. The name, address, and telephone number (of a contact person) of the consulting firm used, if any.

8. Any other information the applicant desires to include.

9. The signature and title of an appropriate official who is able to attest to the validity of the data submitted and who is authorized to submit the application.

Issued at Golden, Colorado, April 24, 1981.

William H. Clagett,

Deputy Administrator.

[FR Doc. 81-13897 Filed 5-6-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-222; PH-FRL 1820-6]

Pesticide Products; Filing of Pesticide and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed pesticide and feed additive petitions for residues of certain pesticide products in or on certain raw agricultural commodities and feed items.

ADDRESS: Written comments to the product manager cited in each specific petition at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Written comments may be submitted while a petition is pending before the agency. The comments are to be identified by the document control number "[PF–222]" and the specific petition number. All written comments filed pursuant to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each specific petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide and feed additive petitions have been submitted to the agency by various companies to establish tolerances and a feed additive regulation for residues of certain pesticides in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each specific petition.

PP 1F2464. Albany International, 110 A St., Needham Heights, MA 02194 has submitted a petition proposing that 40 CFR Part 180 be amended by establishing an exemption from the requirement of a tolerance for the insecticides (*Z*)-4-Tridecen-1-yl acetate and (*E*)-4-Tridecen-1-yl acetate when used on tomato plants. (PM 17, Franklin D. R. Gee, Rm. 400, CM=2, 703–557–7028).

PP 1F2435. Albany International, 110 A St., Needham Heights, MA 02194 has submitted a pesticide petition proposing that 40 CFR Part 180 be amended by establishing an exemption from the requirement of a tolerance for *Heliothis virescens* when used on cotton to control tobacco budworms. (PM 17, Franklin D. R. Gee, 401, CM=2, 703–557–7028).

FAP 1H5293. Ciba-Geigy Corp., P.O. Box 11422, Greensboro, NC 27409 has submitted a feed additive petition proposing that 21 CFR Part 561 be amended by establishing a feed additive regulation permitting residues of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy 1-methylethyl)acetamide] and its metabolites 2-([2-ethyl-6-methylphenyl]amino)propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone (expressed as the parent compound) on the commodities flaxseed meal at 0.4 part per million (ppm) and flax hulls at 0.4 ppm. (PM 23, Richard F. Mountford, Rm. 412D, CM=2, 703–557–7070).

PP 1F2477. E. I. du Pont de Nemours & Co., Wilmington, DE 19898 has submitted a pesticide petition proposing that 40 CFR 180.209(b) be amended by establishing tolerances for the combined residues of the herbicide terbacil (3-tert-butyl-5-chloro-6-methyluracil) and its metabolites [3-tert-butyl-5-chloro-6-hydroxymethyluracil]; [6-chloro-2,3-dihydro-7-hydroxymethyl-3,3-dimethyl-5H-oxazol (3,2-a)pyrimidin-5-one]; and [6-chloro-2,3-dihydro-3,3,7-trimethly-5H-oxazolo(3,2-a)-pyrimidin-5-one] in or on the raw agricultural commodities grasses, hay at 1.0 ppm and grasses, forage at 1.0 ppm. The proposed analytical method for determining residues is by microcorilometric gas chromatography. (PM 25, Robert J. Taylor, Rm. 412E, CM=2, 703–557–7066).

PP 1F2456. Stauffer Chemical Co., 1200 S. 47th St., Richmond, CA 94804 submitted a pesticide petition proposing that 40 CFR Part 180 be amended by establishing an exemption from the requirement of a tolerance for *O,O*-diethyl-*O*-phenylphosphoiothioate when used in formulations of the herbicide S-ethyl dipropylthiocarbamate applied to corn fields before the corn plants emerge from the soil, and according to the following restrictions: *O,O*-diethyl-*O*-

phenylphosphorothioate (R-33865) as an inert ingredient in herbicide formulations with a maximum of 1 pound R-33865 per acre. The proposed analytical method for determining residues is by gas chromatography using a nitrogen-phosphorous flame ionization detector. (PM 25, Robert J. Taylor, Rm. 412E, CM=2, 703-557-7066).

(Secs. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: April 29, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-13788 Filed 5-6-81; 8:45 am]

BILLING CODE 6560-32-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-C31045; PH-FRL 1820-8]

Calgon Corp.; Receipt of Application To Conditionally Register Pesticide Product Entailing a Changed Use Pattern; TEKTAMER 38

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that applications have been submitted to conditionally register pesticide products entailing a changed use pattern.

DATE: Written comments must be received by June 8, 1981.

ADDRESS: Written comments to: Arturo Castillo, Product Manager (PM) 32, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Arturo Castillo, (703-557-7170).

SUPPLEMENTARY INFORMATION: Applications to conditionally register pesticide products entailing a changed use pattern have been received from Calgon Corp., P.O. Box 1346, Pittsburgh, PA 15230. These applications are made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136), and the regulations thereunder (40 CFR 162.6). Notice of receipt of these applications does not indicate a decision by the agency on the applications.

EPA Registration No. 10445-33. Product Name: TEKTAMER 38, containing the active ingredient 1,2-Dibromo-2,4-Dicyanobutane at 98 percent. The application proposes that the microbiocide classified for general use be as a preservative in paints, adhesives, latex emulsions, disperse pigments, joint cements, and metalworking fluids be changed to a preservative in liquid detergents, laundry starches, and fabric softeners.

EPA Registration No. 10445-22. Product Name: TEKTAMER 38 Liquid Concentrate, containing the active ingredient 1,2-Dibromo-2,4-Dicyanobutane at 25 percent. The application proposes that the microbiocide classified for general use as a preservative in paints, adhesives, latex emulsions, dispersed pigments, joint cements, and metalworking fluids be changed to a preservative in liquid detergents, laundry starches, and fabric softeners.

Notice of approval or denial of these applications to conditionally register the pesticide products will be announced in the **Federal Register**. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136), the test data and other scientific information deemed relevant to the registration decision may be made available after approval, under provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Interested persons are invited to submit written comments on these applications. Comments may be submitted and inquiries directed to the product manager. The comments must be received on or before June 8, 1981 and should bear a notation indicating the document control number "[OPP-C31045]" and the file symbol. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(40 CFR 162.5 and 162.6)

Dated: April 29, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-13786 Filed 5-6-81; 8:45 am]

BILLING CODE 6560-32-M

[OPP-C31042A; PH-FRL 1820-7]

National Chemsearch; Approval of Application To Conditionally Register a Pesticide Product Entailing a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces conditional approval of an application to register the pesticide product FENOCIL II, entailing a changed use pattern.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 412D, CM=2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7070).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of December 24, 1980 (45 FR 85153), that National Chemsearch, Division of NCH Corp., 2727 Chemsearch Blvd., Irving, TX 75062, had filed an application (EPA File Symbol 1769-EOI) with the EPA to register the pesticide product HK-7 Weed Killer, containing the active ingredients: Heavy Aromatic Naptha at 92.17 percent; Tetrachloroacetic Acid at 3.50 percent; and Bromacil (5-bromo-3-sec-butyl-6-methyluracil) at 0.90 percent. The ingredient tetrachloroacetic acid had not previously been registered for the use sites proposed.

Subsequently, an application (EPA File Symbol 1769-EII) was approved for the pesticide product, FENOCIL II, containing the same active ingredients at different percentages: Heavy Aromatic Naptha at 83.10 percent; Trichloroacetic Acid at 8.62 percent; and Bromacil (5-bromo-3-sec-butyl-6-methyluracil) at 2.47 percent. Notice of this registration is given in accordance with 40 CFR 162.7(d)(2).

The application was approved for conditional registration on March 12, 1981. The product has been assigned the EPA Registration No. 1769-288. FENOCIL II is conditionally registered for general use on outdoor/noncropland such as loading ramps, fence rows, railroad sidings, storage yards, parking lots, around buildings, and industrial plant sites. A copy of the approved label and list of data references used to support registration are available for public inspection in the office of the product manager.

The data and other scientific information used to support registration, except for 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 public inspection in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of March 12, 1981. 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, 401 M St. SW., Washington, D.C. 20460. 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. (7 U.S.C. 136))

Dated: April 29, 1981.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-13787 Filed 5-6-81; 8:45 am]

BILLING CODE 6560-32-M

[OPP-30198; PH-FRL 1821-2]

Pesticide Products; Receipt of Applications To Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register certain pesticide products containing new active ingredients.

DATE: Comments must be received on or before June 8, 1981 and should bear a notation indicating the EPA file symbol.

ADDRESS: Written comments to the product manager cited in each specific application at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that certain companies have submitted applications to register certain pesticide products containing new active ingredients. These applications are made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136), and the regulations thereunder (40 CFR 162.6). Notice of receipt of these applications does not indicate a decision by the agency on the applications.

EPA File Symbol 42981-E. U.S. Soil Inc., Drawer 926, Salida, CO 81201. Product Name: Bollex Cotton Boll Feeding Deterrent, containing 20 percent of the active ingredient methyl alpha-eleosterate [methylester of (Z,E,E)-9,11,13-octadecatrienoic acid]. The product is proposed for general use on cotton. (PM 16, William H. Miller, 707-557-7040).

EPA File Symbol 2097-RE. Beecham Labs, Bristol, TN 37620. Product Name: MYCODEX Sanitizer-disinfectant containing 4.0 percent of the active ingredient 1,1-hexamethylenebis [5, (4-chlorophenyl)biguanide]digluconate. The product is proposed for general use on hard surfaces. (PM 31, John H. Lee, 703-557-7163).

EPA File Symbol 2139-RER. Nor-Am Agricultural Products, Inc., 350 West Sherman Blvd., Naperville, IL 60566. Product Name: PREVEX, containing 66.5 percent of the active ingredient propamocarb hydrochloride. The product is proposed for general use on turf grass. (PM 21, Henry M. Jacoby, 703-557-7060).

Notice of approval or denial of these applications to register the pesticide products will be announced in the **Federal Register**. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136), the test data and other scientific information deemed relevant to the registration decision may be made available after approval, under provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Interested persons are invited to submit written comments on these applications. Comments may be submitted an inquiries directed to the product manager. The comments must be received on or before June 8, 1981 and should bear a notation indicating the document control number "[OPP-30198]" and the file symbol. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

Dated: April 29, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-13785 Filed 5-6-81; 8:45 am]

BILLING CODE 6560-32-M

[A-4-FRL 1796-7]

Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to the Commonwealth of Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Informational notice.

SUMMARY: Section 301 in conjunction with Sections 111 and 112 of the Clean Air Act authorizes the Administrator to delegate his authority to implement and enforce the New Source Performance Standards (NSPS) and National Emission Standard for Hazardous Air Pollutants (NESHAPS). The Commonwealth of Kentucky has requested delegation of this authority. After a thorough review of the request and information submitted, the Regional Administrator determined that such delegation was appropriate for the source categories and with the conditions set forth in the letter reproduced below. Source categories identified below which are subject to these requirements will now be under jurisdiction of the Commonwealth of Kentucky.

EFFECTIVE DATE: December 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin Russell, Air Program Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, phone 404/881-3286 or FTS 257-3286.

SUPPLEMENTAL INFORMATION: In letters dated May 5 and July 13, 1976 and March 18, 1977, and in an undated letter received by the EPA Regional Office on August 12, 1980, the Kentucky Department for Natural Resources and Environmental Protection submitted to the EPA Regional Office requests for delegation of authority and implementation and enforcement of NSPS and NESHAPS. After a thorough review of the request and information submitted, The Regional Administrator has determined that delegation or relinquishment of this authority to Kentucky is appropriate subject to the conditions set forth in the following letter.

[COPY OF SCHELL LETTER DATED DECEMBER 5, 1980]. Therefore, pursuant to the authority delegated to

her by the Administrator, the Regional Administrator formally notified Mr. Norman E. Schell, Director of Kentucky's division of Air Pollution Control that the authority to implement and enforce NSPS and NESHAPS for source categories listed was delegated to the Commonwealth of Kentucky.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region IV Office, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Effective immediately, all reports required pursuant to the delegated NSPS snd NESHAPS should not be submitted to the EPA Region IV office, but instead should be submitted to the Kentucky agency at the following address: Mr Norman E. Schell, Director, Division of Air Pollution Control, Kentucky Department for Natural Resources and Environmental Protection, West Franklin Office Complex, 1050 U.S. 127 South, Frankfort, Kentucky 40601.

This notice is issued under the authority of Sections 111, 112, and 301 of the Clean Air Act, as amended (42 U.S.C. 7411, 7412, and 7601).

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it merely transfers authority from the Federal government to the State government; it imposes no new regulatory requirements.

John A. Little,

Acting Regional Administrator.

December 5, 1980.

Mr. Norman E. Schell,

Director, Division of Air Pollution Control, Kentucky Department for Natural Resources and Environmental Protection, West Franklin Office Complex, 1050 U.S. 127 South, Frankfort, Kentucky

Dear Mr. Schell: On April 12, 1977 we delegated to the Commonwealth of Kentucky the authority for implementation and enforcement of the Standards of Performance for New Stationary Sources (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) that had been promulgated by EPA as of March 18, 1977. On February 23, 1978 and March 7, 1978, EPA promulgated NSPS for kraft pulp mills and lime manufacturing plants, respectively; on October 21, 1976 and April 6, 1973 (amended March 3, 1978) EPA promulgated NESHAPS for vinyl chloride and beryllium rocket motor firing respectively. In your letter (undated) received by this office on August 12, 1980, you requested that EPA delegate to the Commonwealth of Kentucky the authority for implementation and enforcement of these new Federal regulations.

As stated in our letter of April 12, 1977 we have reviewed the pertinent laws of the Commonwealth of Kentucky and your rules and regulations and have determined that they provide an adequate and effective procedure for implementing and enforcing the NSPS and NESHAPS in the Commonwealth of Kentucky. Therefore, we hereby delegate our authority for the implementation and enforcement of NSPS and NESHAPS to the Commonwealth of Kentucky as follows:

A. Authority for all sources located or to be located in the Commonwealth of Kentucky subject to the Standards of Performance for New Stationary Sources for kraft pulp mills and lime manufacturing plants promulgated in 40 CFR Part 60 as of the date of this letter.

B. Authority for all sources located or to be located in the Commonwealth of Kentucky subject to the National Emission Standards for Hazardous Air Pollutants for vinyl chloride and beryllium rocket motor firing promulgated in 40 CFR Part 61 as of the date of this letter.

This delegation is based upon the same conditions as those stated in our letter of April 12, 1977, except that Condition 4, relating to Federal facilities, has been voided by the Clean Air Act Amendments of 1977. A copy of the April 12, 1977 letter was published in the notices section of the **Federal Register** of December 28, 1977 (42 FR 64735), along with the associated rulemaking notifying the public that certain reports and applications required from operators of new sources shall be submitted to the Commonwealth of Kentucky (43 FR 3360). All those conditions except Condition 4, relating to Federal facilities are hereby incorporated into this delegation by reference. A notice announcing this delegation will be published in the **Federal Register** in the near future.

Since this delegation is effective immediately, there is no need for the Commonwealth to notify EPA of its acceptance. Unless we receive from you written notice of objections within ten days of the date on which you receive this letter, the Commonwealth of Kentucky will be deemed to have accepted all of the terms of the delegation.

Sincerely yours,

John A. Little,

Deputy Regional Administrator.

[FR Doc. 81-13789 Filed 5-6-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1983 Region 2 DBS Planning Conference; Service Requirements, Technical Parameters, and Inter-Service Sharing Sub-Group Meetings

April 29, 1981.

The above-mentioned three sub-committees will meet on the 21st and 22nd of May, 1981 at the Federal Communications Commission (FCC) offices, 1229 20th Street, N.W., Washington, D.C. in Room A-110. The Service Requirements sub-committee will meet from 9:30 A.M. until noon on 21 May; the Technical Parameters sub-committee will meet from 1:30 P.M. until 4:00 P.M. on 21 May; and the Inter-Service Sharing sub-committee will meet from 9:30 A.M. until noon on 22 May. The purpose of the meetings is to discuss and agree upon the method of work of each of the sub-committees, to form appropriate working groups or drafting groups, and to establish broad timetables for completion of work.

These meetings will be open to the public. Parties wishing to offer extensive statements during the meeting must make arrangements with the sub-committee before the meeting. Written statements will be accepted before or after the meeting.

For further information, contact Edward R. Jacobs, Office of Science and Technology, FCC, 2025 M Street, N.W., Washington, D.C. 20554 (202) 653-8102

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-13709 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-30]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: April 30, 1981.

Cut-Off Date: June 12, 1981.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after June 12, 1981. An application, in order to be considered with any application appearing on the attached list or with any other on file by the close of business on June 12, 1981, which involves a conflict necessitating a hearing with any application on this list must be substantially complete and tendered for filing at the close of business on June 12, 1981.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on June 12, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BP-801112AA (KFWY), Sumner, Washington, Southsound Communications, Inc., Has: 1560 kHz, 0.25 kW, D, Req: 1560 kHz, 1 kW, DA-1, U

BP-801230AE (WACK), Newark, New York, Pembrook Pines, Inc., Has: 1420 kHz, 0.5

kW, DA-N, U. Req: 1420 kHz, 0.5 kW, 5 kW-LS, DA-2, U

BP-810220AA (WHTH), Heath, Ohio, Runnymede, Inc., Has: 790 kHz, 0.5 kW, DA-D, Req: 790 kHz, 1 kW, DA-D

BP-810331AE (KWIQ), Moses Lake North, Washington, Radio Station KWIQ, Has: 1260 kHz, 1 kW, D, Req: 1020 kHz, 0.5 kW, 5 kW-LS, U

[FR Doc. 81-13710 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket No. 81-224]

Clarence R. Mitchell, Sr.; Designating Application for Hearing on Stated Issues

Adopted: April 2, 1981.

Released: April 8, 1981.

The Chief, Private Radio Bureau, has under consideration the Citizens Band (CB) License application of Clarence R. Mitchell, Sr., 667 Edmonds Avenue N.E., Renton, Washington 98055.

1. Information before the Commission indicates that on October 15, 1980, the Commission monitored Mitchell transmitting on the frequency 27.814 MHz. 27.814 MHz is assigned for use of United States Government radio stations. Mitchell does not possess a license authorizing use of that frequency, thus his operation was apparently in wilful violation of Section 301 of the Communications Act of 1934, as amended which prohibits unlicensed radio operation.

2. Further information before the Commission indicates that on October 16, 1980, the Commission monitored Mitchell transmitting on the frequency 27.814 MHz in apparent wilful and repeated violation of Section 301 of the Act. As a result of these monitorings, Mitchell was issued a letter warning of unlicensed operation (FCC Form 835) on October 10, 1980.

3. On October 24, 1980, Mitchell applied to the Commission for a license in the Citizens Band Radio Service. Mitchell's apparent unlicensed radio operation calls into question his qualifications to become a Commission licensee in the CB Radio Service. This matter precludes the Commission from determining that a grant of Mitchell's application would serve the public interest, convenience, and necessity.

4. Accordingly, it is ordered, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and § 1.973(b) and 0.331 of the Commission's Rules, that Mitchell's application, filed October 24, 1980, for a Citizens Band Radio Station License is designated for hearing on the issues specified below:

(a) To determine whether Clarence R. Mitchell, Sr., has operated radio transmitted equipment in wilful and/or repeated violation of Section 301 of the Communications Act of 1934, as amended.

(b) To determine whether Clarence R. Mitchell, Sr., has the requisite qualifications to become a Commission licensee.

(c) To determine whether a grant of the application of Clarence R. Mitchell, Sr., for a station license in the Citizens Band radio service, would serve the public interest, convenience, and necessity.

5. It is further ordered, That if Mitchell wants a hearing on the application, he must file within 20 days a written notice that he will appear at a hearing to present evidence on the issues specified above.[1] If a hearing is requested, the time, place, and Presiding Judge will be specified by subsequent order.

6. It is further ordered, That copies of this Order SHALL BE SENT by Certified Mail—Return Receipt Requested and by Regular Mail to the applicant at his address of record (shown in caption).

Chief, Private Radio Bureau.

By: **W. Riley Hollingsworth, Jr.,**

Acting Chief, Compliance Division.

[FR Doc. 81-13712 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-285, File No. BP-791227 Au; et al.]

Gospel-West Broadcasting, et al.; Designating Applications For Consolidated Hearing on Stated Issues

In re applications of Gospel-West Broadcasting, West Richland, Washington, Req: 1600 kHz, 2.5 kW, 5kW-LS, DA-N, U; BC Docket No. 81-285, File No. BP-791227AU; Radio Spokane, Inc., KSPO, Spokane, Washington, Has: 1230 kHz, 250 W, 1 kW-LS, U, Req: 1600 kHz, 5 kW, DA-2, U; BC Docket No. 81-286, File No. BP-800627AA; and Western Sun, Inc., KLAK, Lakewood, Colorado, Has: 1600 kHz, 5 kW, DA-N, U, Req: Minor Change in Nighttime Operation; BC Docket No. 81-287, File No. BP-800721AR, for construction permit.

Hearing Designation Order

Adopted: April 22, 1981.

Released: April 30, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for new and modified AM broadcast stations.

2. *Gospel-West Broadcasting.* Analysis of the financial data Gospel-West submitted reveals that at least $55,660 will be required to construct its proposed station and operate for three months, itemized as follows:

Equipment down payment	$4,938
Equipment payments	9,876
Land and building costs	7,000
Other construction costs	10,250
Operating costs	21,500
Miscellaneous promotion and administrative costs	2,096
Total	55,660

However, we are unable to determine whether applicant has adequately provided for operating costs, since it has not properly itemized them, as required by Form 301. To finance its proposed station, Gospel-West relies on a $50,000 loan and the return of $5,000 in deposits on land it no longer plans to buy. Apart from the obvious failure of these funds to cover even the costs listed, neither source of funds has been shown available. The lender is not a financial institution, and its balance sheet has not been submitted; and there is no documentation regarding the $5,000 in deposits. A limited financial issue must therefore be specified.

3. *Radio Spokane, Inc.* Radio Spokane's nighttime interference-free (7.4 mV/m) contour would cover only about 95 percent of the area of Spokane. The applicant describes the area that would not receive service as recently annexed and sparsely populated, so more than 95 percent of Spokane's population would receive nighttime interference-free service. The proposal therefore substantially complies with the principal-city coverage requirements of Section 73.24(j) of the Commission's Rules. See *Broadcasting, Inc.*, 20 FCC 2d 713 (Rev. Bd. 1969).

4. We have no evidence that Radio Spokane broadcast and published the local notice of its application required by § 73.3580 of the Rules. It must therefore demonstrate that it did.

5. *Western Sun, Inc.* KLAK has been authorized a nighttime directional antenna with an RMS value of radiation of 415 mV/m since 1965 (BP-16,544). Recently, its consulting engineer discovered that based upon the station's licensed pattern parameters, the RMS should be 469.9 mV/m. Accordingly, Western Sun filed this application to specify an RMS of 469.9 mV/m and make other corrections. The proposed KLAK operation would raise the

[1] The enclosed form and preaddressed envelope should be used to request or decline a hearing in this matter. Failure to file a hearing request within the designated period will result in dismissal of the application pursuant to § 1.221(c) of the Commission's Rules.

nighttime limit of the KSPO proposal slightly, thereby reducing its coverage of Spokane. Consequently, the KLAK and KSPO proposals are mutually exclusive and must be considered together.

6. *Other matters.* Because the three proposals are for different communities, it will be necessary to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of them would best provide a fair, efficient, and equitable distribution of radio services.

7. Except as indicated by the issue specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Gospel-West Broadcasting:

(a) Whether the amount it proposes for initial operating costs is sufficient for that purpose;

(b) The source and availability of sufficient funds to meet anticipated costs; and

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

2. To determine the areas and populations which would receive service from each proposal, and the availability of other primary aural service to such areas and populations.

3. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the application should be granted.

9. It is further ordered, That Radio Spokane, Inc. shall broadcast and publish local notice of its application (if it has not already done so) and file a statement with the presiding Administrative Law Judge within 40 days after this Order is published in the Federal Register.

10. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That pursuent to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-13713 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-290, File No. BP-801103AJ and BC Docket No. 81-291, File No. BP-810209AJ]

KDUN Radio, Inc., and Gospel Hymn Time, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of KDUN Radio, Inc., KDUN, Reedsport, Oregon, Has: 1470 kHz, 5 kW, Day, Req: 700 kHz, 500 W, 10 kW-LS, U; BC Docket No. 81-290, File No. BP-801103AJ; and Gospel Hymn Time, Inc., Winston, Oregon, Req: 700 kHz, 500 W, 25 kW-LS, U; BC Docket No. 81-291, File No. BP-810209AJ; for construction permit.

Hearing Designation Order

Adopted: April 22, 1981.

Released: April 29, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for new and modified AM broadcast stations.

2. *KDUN Radio, Inc.* We have no evidence that KDUN broadcast the local notice of its application required by § 73.3580 of the Commission's Rules. It must therefore demonstrate that it did.

3. *Gospel Hymn Time, Inc.* In Section II, Table II of its application, Gospel Hymn Time has apparently not listed all the business and financial interests of principals Richard Gawer and Lyle Arndt for the past five years. An amendment is required.[1]

4. *Other matters.* Both applicants are qualified to construct and operate as proposed. However, the proposals are mutually exclusive, so they must be set for hearing in a consolidated proceeding. Since the proposals are for different communities, an issue must be specified to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of them would be better provide a fair, efficient, and equitable distribution of radio service. Further, since the proposals would serve substantial common areas, a contingent comparative issue will be specified.

5. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

2. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

3. To determine, in the event it be concluded that a choice between the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would on a comparative basis better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which application should be granted.

6. It is further ordered, That Gospel Hymn Time, Inc. shall file the amendment specified in paragraph 3 above, on or before June 8, 1981.

7. It is further ordered, That KDUN Radio, Inc. shall broadcast local notice of its application (if it has not already done so) and file a statement of notice with the presiding Administrative Law Judge on or before June 8, 1981.

8. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

9. It is further ordered, That pursuant to Section 311(a)(2) of the

[1] This applicant has also been requested by pre-designation letter to file certain environmental information about its proposed nighttime transmitter site. If it has not yet done so, it must file that information within the specified time.

Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 81-13714 Filed 5-6-81: 8:45 am]

BILLING CODE 6712-01-M

[BC Docket 81-288, File No. BP-800117AF and BC Docket 81-289, File No. BP-801003AK]

Osborn Communications Corp. and Jem Broadcasting Co.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Osborn Communications Corporation, KJLA, Kansas City, Missouri, Has: 1190 kHz, 250 W, 1 kW-LS, DA-N, U, Req: 1190 kHz, 250 W, 5 kW-LS (1 kW-CH), DA-N, U; BC Docket 81-288, File No. BP-800117AF; and Jem Broadcasting Company, KJEM, Bentonville, Arkansas, Has: 1190 kHZ, 500 W, Day, Req: 1190 kHz, 5 kW (2.5 kW-CH), Day; BC Docket 81-289, File No. BP-801003AK; for construction permit.

Hearing Designation Order

Adopted: April 22, 1981.

Released: April 28, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications to improve the daytime facilities of existing AM broadcast stations.

2. Both applicants are qualified to construct and operate as proposed. However, the proposals are mutually exclusive, so they must be designated for hearing in a consolidated proceeding. Further, because the proosals are for different communities, it will be necessary to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of them would better provide a fair, efficient, and equitable distribution of radio service.

3. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

2. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which application should be granted.

4. It is further ordered, That to avail themselves of the opportunity to be heard ad pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

5. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

By: **Larry D. Eads,**

Acting Chief Broadcast Facilities Division.

[FR Doc. 81-13715 Filed 5-6-81: 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-292, File No. BPCT-791210KG, et al.]

Quality Media Corp., et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Quality Media Corporation, Birmingham, Alabama, BC Docket No. 81-292, File No. BPCT-791210KG; Birmingham Family Television, Inc., Birmingham, Alabama, BC Docket No. 81-293, File No. BPCT-800521KP; and Celtic Media, Inc., Birmingham, Alabama, BC Docket No. 81-294, File No. BPCT-800521KQ; for construction permit.

Hearing Designation Order

Adopted: April 9, 1981.

Released: April 30, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television broadcast station on Channel 68, Birmingham, Alabama.

2. *Quality Media Corporation (QMC).* Analysis of the financial data submitted by QMC reveals that $164,500 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$108,000
Building	2,500
Legal costs	2,500
Engineering and installations costs	4,500
Miscellaneous costs	5,000
Operating costs (3 months)	42,000
Total	164,500

To meet these costs, QMC relies upon the following:

Cash	$46,504
Contracts for air time	159,540
Total	206,044

3. QMC's estimates for construction, legal, engineering and operating expenses for three months seem unreasonably low. An issue inquiring into the basis of QMC's cost estimates will be specified.

4. Review of QMC's balance sheet shows that it has net liquid assets of only $13,262. Further, anticipated air-time revenues cannot be considered as an immediate source of funds because applicant has not shown that these revenues will be forthcoming before the proposed station goes into operation. Therefore, applicant's reliance on $159,540 from contracts for air time is misplaced. Accordingly, financial issues will be specified.

5. No determination has been reached that the antenna structure proposed by BFT would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

6. *Celtic Media, Inc. (CMI).* No determination has been reached that the antenna structure proposed by CMI would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That, pursuant to Section 309(e) of the

Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place and before an Administrative Law Judge to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Quality Media Corporation:

(a) whether a reasonable basis exists for its estimate of construction and operational costs;

(b) whether applicant has available sufficient funds to construct and operate as proposed;

(c) whether, in light of the evidence adduced pursuant to issues (a) and (b), applicant is financially qualified.

2. To determine with respect to Birmingham Family Television, Inc.:

(a) whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation;

(b) whether, in light of the evidence adduced pursuant to the foregoing issue, applicant is qualified.

3. To determine with respect to Celtic Media, Inc.:

(a) whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation;

(b) whether, in light of the evidence adduced pursuant to the foregoing issue, applicant is qualified.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

10. If is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

By: **Larry D. Eads,**

Acting Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 81-13716 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket No. 81-278, File Number 518-A-L-70, et al.]

Reading Aviation Service, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Reading Aviation Service, Inc., Reading, Pennsylvania, PR Docket No. 81-278, File Number 518-A-L-70; Perkiomen Airways, Ltd., Reading, Pennsylvania, PR Docket No. 81-279, File Number 554-A-L-60; and Public Aviation, Inc., Reading, Pennsylvania, PR Docket No. 81-280, File Number 555-A-L-60; for an Aeronautical Advisory Station to serve Reading Municipal Airport, Reading, Pennsylvania.

Order

Adopted: April 23, 1981.

Released: April 30, 1981.

1. Reading Aviation Service, Inc. (hereafter Reading), Perkiomen Airways, Ltd. (hereafter Perkiomen), and Public Aviation, Inc. (hereafter Public) have filed applications for a new Aeronautical Advisory Station at Reading Municipal Airport, Reading, Pennsylvania. Since § 87.251(a) of our rules provides that only one aeronautical advisory station may be authorized at an airport, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate these applications for comparative hearing in order to determine which, if any, should be granted.

2. In view of the foregoing, it is ordered, That pursuant to the provisions of Section 309(e) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following comparative issues:

(a) to determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) location of the aviation service organization and the proposed radio station in relation to the landing area and traffic patterns;

(2) hours of operation;

(3) personnel available to provide advisory service;

(4) experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the Aviation Services (Part 87) that may be or have been authorized to the applicant;

(5) ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) proposed radio system including control and dispatch points; and

(7) the availability of the radio facilities to other aviation service organizations;

(b) to determine in light of the evidence adduced on the foregoing issues which of the applications should be granted.

3. It is further ordered, That the burden of proof and the burden of proceeding with the introduction of evidence is on each applicant with respect to its application except issue (b) which is conclusory.

4. It is further ordered, That to avail themselves of an opportunity to be heard, Reading, Perkiomen, and Public pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission, in triplicate a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 81-13717 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-27]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: April 30, 1981.

Cut-Off Date: June 15, 1981.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. They will be considered to be ready and available for processing after June 15, 1981. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on June 15, 1981, which

involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C. no later than the close of business on June 15, 1981.

Petitions to deny any application on this list mumst be on file with the Commission not later than the close of business on June 15, 1981.

Applications for new stations may not be filed against any application on the attached list which is designated by an asterisk (*).

Federal Communications Commission.

William J. Tricarico,

Secretary.

*BMLCT-810109KF (WJNL-TV) Johnstown, Pennsylvania, Cover Broadcasting, Inc. Channel 19. Increase ERP Vis. to 2504 kW; change transmitter location.

BPCT-810121KO (new) Wilmington, North Carolina, Wilmington Telecasters, Inc. Channel 29. ERP: Vis. 3192 kW; HAAT: 803 feet

BPCT-810126KE (new) Hardeeville, South Carolina (Savannah, Georgia allocation). Business and Minority Coalition Broadcasters, Inc. Channel 28. ERP: Vis. 5000 kW; HAAT: 1313 feet

BPCT-810206KF (new) San Diego, California, Venton Corporation. Channel 69. ERP: Vis. 3155 kW; HAAT: 1906 feet

BPCT-810209KE (new) Knoxville, Tennessee, Knoxville Broadcasting Corp. Channel 8. ERP: Vis. 316 kW; HAAT: 1866 feet

BPCT-810227KH (new) Toledo, Ohio, Toledo Telecasting, Inc. Channel 36. ERP: Vis. 2056 kW; HAAT: 1416 feet

BPCT-810227KI (new) High Point, North Carolina, Fox Media, Inc. Channel 67. ERP: Vis. 1355 kW; HAAT: 978 feet

[FR Doc. 81-13711 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Doc. No. 81-295 ect.; File No. BPH-800603AB ect.]

South Burlington Communications Corp. et al.; Applications for Consolidated Hearing on Stated Issues

Adopted: April 24, 1981.

Released: May 1, 1981.

By the Chief, Broadcast Bureau.

In the matter of South Burlington Communications Corp., South Burlington, Vermont, Req: 95.3 MHz, Channel 237A 1.8 kW (H&V), 370 feet, BC Docket No. 81-295 File No. BPH-791012AH. Lake Champlain Communications Corp., South Burlington, Vermont, Req: 95.3 MHz, Channel 237A 1.5 kW (H&V), 402 feet, BC Docket No. 81-296 File No. BPH-800603AB. Champlain Valley Broadcasting Corp., South Burlington, Vermont, Req: 95.3 MHz, Channel 237A 3.0 kW (H&V), 225 feet, BC Docket No. 81-297 File No. BPH-800829AL.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of South Burlington Communications Corp. (South Burlington), Lake Champlain Communications Corp. (Lake Champlain) and Champlain Valley Broadcasting Corporation (Champlain Valley) for a construction permit for a new FM station.

2. *South Burlington.* An analysis of the financial data submitted by South Burlington reveals that $130,396 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$68,595
Land	600
Buildings	5,500
Miscellaneous	10,333
Operating expenses (three months)	45,368
Total	130,396

To meet these expenses South Burlington is relying on $2,000 existing capital, $68,595 deferred credit, a loan of $87,000 from the Merchants Bank and $48,000 in personal loans from the applicant's principals, Martin Chester and Howard M. Ginsberg. The bank loan and deferred credit figures used in the analysis above, are contained in an amendment which was filed by South Burlington on December 19, 1980. However, the amendment fails to contain documentation from the respective creditors acknowledging the changes in commitment. Accordingly, a financial issue will be specified.

3. Lake Champlain filed an amendment and a motion for leave to amend, on March 6, 1981, after the December 19, 1980 cut-off date. South Burlington Communications Corporation filed an Opposition on April 6, 1981, contending that the amendment improves the comparative position of Lake Champlain and should be denied. The amendment modifies Lake Champlain's engineering date by correcting its computation of the 60 dbu and 70 dbu contours and by updating the census figures to 1980 data. Further, it informs the Commission that International Television Corporation has an application pending before the Commission, to assign the license of WEZF-FM to its wholly owned subsidiary, Martin Broadcasting, Inc.[1] corrects previously filed information and does not change the comparative qualifications of the applicant. The change in ownership of WEZF-FM to Martin Broadcasting, Inc., does not affect Lake Champlain's comparative qualifications because the applicant's majority shareholder signed a written agreement dated May 7, 1980, promising to divest himself of all other broadcast interests, including WEZF-FM should his application be granted.

4. *Champlain Valley.* Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause the main studio may be located outside that community. Champlain Valley proposes to locate its main studio at its transmitter site, approximately two miles from South Burlington. The applicant has requested that we waive Section 73.1125 of the Commission's Rules and has demonstrated good cause for locating the main studio outside of South Burlington.

5. An analysis of the financial data submitted by Champlain Valley reveals that $143,060 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$72,143
Other	40,507
Operating costs (three months)	30,410
Total	143,060

Champlain Valley plans to finance construction and operation costs, with a net loan of $86,900 from the Merchants Bank and with $42,170 deferred credit from its equipment supplier. Further, the applicant's principals, John Nichols and Lawrence McCrorey, have agreed to lend the corporation $104,500, obtained in part, from a $100,000 loan from John Nichols parents, Mr. & Mrs. Josef Nichols. The only information that Mr. & Mrs. Nichols have submitted, substantiating their loan commitment is an appraisal of their home in Yonkers, New York, indicating that it has a fair market value of $110,000. This information does not establish that these funds are available. Mr. & Mrs. Nichols must submit a balance sheet and a commitment letter indicating that they intend to sell or mortgage the house so that they will have liquid funds at their disposal. Consequently, a financial issue will be specified.

6. Champlain Valley will not be able to provide a 3.16 mV/m signal to the entire city of South Burlington as required by Section 73.315(a) of the

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[1] The applicant's majority shareholder, John R. Hughes, is 3.72% shareholder and general manager of International Television Corporation. International Television Corporation is the licensee of WEZF-FM and WEZF-TV, Burlington, Vermont.

Commission's Rules. We believe that adequate justification has not been provided for waiver of this provision. Accordingly, as issue will be specified.

7. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

8. All three applicants, South Burlington, Lake Champlain and Champlain Valley, have not provided us with current FAA clearance. Accordingly, an appropriate issue will be specified.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

10. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine with respect to South Burlington Communications Corporation:

(a) the source and availability of additional funds over and above the $50,000 indicated; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

(2) To determine with respect to Champlain Valley Broadcasting Corporation:

(a) the source and availability of addditional funds over and above the $133,570 indicated; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

(3) To determine with respect to Champlain Valley whether circumstances exist to warrant a waiver of Section 73.315(a) of the Commission's Rules.

(4) To determine whether there is a reasonable possibility that the tower height and location proposals by South Burlington, Lake Champlain and Champlain Valley would constitute a hazard to air navigation.

(5) To determine, which of the proposals would, on a comparative basis, best serve the public interest.

(6) To determine, in the light of the evidence adduced pursuant to the foregoing issues, which if any, of the applications should be granted.

11. It is further ordered, That the motion for leave to amend filed by South Burlington Communications Corp. IS GRANTED, and the amendment filed by South Burlington IS ACCEPTED for filing.

12. It is further ordered, That the motions for leave to amend filed by Lake Champlain on March 6, 1981 and April 14, 1981 ARE GRANTED and the amendments filed by Lake Champlain ARE ACCEPTED for filing.

13. It is further ordered, That the motion for leave to amend filed by Champlain Valley Broadcasting Corporation IS GRANTED, and the amendment filed by Champlain Valley IS ACCEPTED for filing.

14. It is further ordered, That in the event the application of Lake Champlain Communications Corp. is granted, it is subject to the condition that program test authority will not be granted until the principals of Lake Champlain divest themselves of all interests in WEZF-FM and WEZF—TV, Burlington, Vermont.

15. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

16. It is further ordered, That, to avail themselves of the opportuntiy to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

17. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-13720 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Doc. No. 80-479 ect., File No. BRH-589]

United Broadcasting Co., et al.; Memorandom Opinion and Order

In re Applications of United Broadcasting Company, Washington, D.C. For Renewal of License of Station WOOK (FM), Washington, D.C., BC Docket No. 80-479, File No. BRH-589. District Broadcasting Company, Washington, D.C. Reg: 100.3 MHz, Channel No. 262 20 KW (H&V), 447 feet. BC Docket No. 80-480 File No. BPH-780831 AY. Hispanic Broadcasting Corporation, Washington, D.C. Req: 100.3 MHz, Channel No. 262 20 KW (H&V), 485 feet For Construction Permits, BC Docket No. 80-481 File No. BPH-780901 AB.

Adopted: April 23, 1981.

Released: April 30, 1981.

By the Commission.

1. On September 10, 1980, the Commission designated the above-captioned applications for a comparative hearing to determine which applicant is most qualified to operate a commerical FM radio broadcast station on frequency 100.3 MHz in Washington, D.C. *United Broadcasting Company.*———FCC 2d———, FCC 80-529, released September 30, 1980. In that order, however, we reserved jurisdiction to consider what effect past misconduct of United Broadcasting Co. (United) at other broadcast stations should have on its basic and/or comparative qualifications in this proceeding. *Id.* at para. 5. Both of the challengers in this proceeding filed pre-designation pleadings proposing how we should address the issue here. We have considered the matter and hold that an issue should be designated to determine whether in light of our decisions in *WOOK (AM)*[1] and *WFAB*,[2] United has the basic and/or comparative qualifications to be the licensee of Station WOOK (FM). United is collaterally estopped from relitigating factual findings and legal conclusions made in Commission orders.

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[1] *United Television Co.*, 55 FCC 2d 416 (1975), *recon. denied*, 59 FCC 2d 663 (1976), *aff'd sub nom. United Broadcasting Co. v. FCC*, 569 F. 2d 689 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 1046 (1978) (hereinafter "*WOOK(AM)*").

[2] *United Broadcasting of Florida*, 55 FCC 2d 832 (1975), *recon. denied*, 60 FCC 2d 816 (1976) (hereinafter "*WFAB*").

I. Background

2. United, licensee of WOOK (FM), is wholly owned by Richard Eaton. Through various subsidiaries United also owns and/or controls licenses to several other broadcast stations.[3] United's stations are no strangers to this agency. Over the past several years, eight of its licenses have been designated for hearing.[4] We have denied renewal or revoked four of those licenses.[5] We approved an ALJ's renewal of two station licenses, contingent on United's sale of those stations, even though broadcast-related misconduct had been shown at evidentiary hearing.[6] An initial decision denying two other broadcast renewal applications has been issued but not yet reviewed by the full Commission.[7]

3. We found United unfit to operate Station WOOK (AM), in Washington, D.C., *supra* note 1, based on a variety of misconduct at that facility. In light of the widespread misconduct at WOOK (AM), we found United unqualified to hold the license and reversed the ALJ's finding that United was entitled to any comparative consideration at all in that contested proceeding. 55 FCC 2d at 417.

4. The evidence revealed that United had broadcast material directly promoting a lottery over an extended period of time in violation of federal and local law, long after top management and Eaton had ample notice of this illegal activity. We found that United's operation of WOOK (AM) reflected "callous disregard" for its listening audience and showed a lack of responsible supervision by Eaton. 55 FCC 2d at 422. United's repeated dissemination of illegal lottery matter alone, we held, was sufficient to warrant non-renewal. *Id.* We also found that United's repeated violation of our technical rules, despite a $7,500 forfeiture and a prior renewal grant made expressly in reliance upon United's assurance of future compliance, destroyed the credibility of its assurances in that respect. *Id.* at 424–25. Since "United's past representations were of no value, [and] no reliance [could] be placed on its present promises of future compliance," United's technical rule violations provided another, independent basis for non-renewal. *Id.* at 425. The licensee's broadcast of false and misleading advertisements while it was on notice that the ads were under investigation by the Federal Trade Commission—also a serious breach of United's fiduciary duty to its listeners—reinforced our decision to deny WOOK (AM)'s renewal application. *Id.* at 423–24.

5. Shortly thereafter, United's renewal application for Station WFAB in Miami, Florida, was also denied, *supra* note 2, based on its flagrant disregard of the Commission's fraudulent billing policy and a total abdication of supervision and control over that station. WFAB's station managers, who directly participated in a massive fraudulent billing scheme, had no previous management experience, and were totally unfamiliar with station procedures. That scheme persisted, we found, because United's principals were—once again—utterly indifferent to evidence of wrongdoing at WFAB, despite clear warning signals. Based on the extensive evidentiary record, we characterized United's attitude toward FCC rules and policies as "gross disregard," 55 FCC 2d at 838, "contemptuous," *id.* at 840, "flagrant," *id.* at 839, and "tantamount to an intentional disregard of its duties." *Id.* In sum, we determined that stripping United of that license was the only legally appropriate action. A forfeiture, we found, far from having a cathartic effect on management of the station, . . . would be cynically viewed [by Eaton and top management] as just another cost of doing business. *Id.* at 841.[8]

6. Each party in this case holds a different theory of the relevance, weight and preclusive effect the prior adverse findings should be given here. Hispanic Broadcasting Corp. (Hispanic), one of the competing applicants, contends that *WFAB* and *WOOK(AM)* conclusively demonstrate that United is unfit to remain a Commission licensee and that, by virtue of *res judicata*, the Commission should deny WOOK(FM)'s renewal application without an evidentiary hearing.[9] District Broadcasting Co. (District), the other mutually exclusive applicant, agrees that our prior decisions are *res judicata* and clearly bear on United's qualifications to retain WOOK(FM), but recommends that the matter instead be explored in the pending evidentiary hearing.[10] United argues that prior findings are limited to the disposition of those licenses. In its view, Hispanic's position is at odds with Commission precedent in factually similar circumstances and with section 309(e) of the Communications Act,[11] which mandates an evidentiary hearing if the FCC is for any reason unable to find a license grant in the public interest. United also maintains that *res judicata*, if applicable to administrative proceedings, only bars relitigation of the fact that it lost control of billing procedures at WFAB; United contends

[3] These stations include: Stations WJMO (AM) and WLYT (FM), Cleveland Heights, Ohio; Station KALI (AM), San Gabriel, Calif.; Station KSOL (FM), San Mateo, Calif.; Station KECC–TV, El Centro, Calif.; Station WMUR–TV, Manchester, N.H.; Stations WSID (AM) and WLPL (FM), Baltimore, Md.; Station WINX (AM), Rockville, Md.; and Station WBNX (AM), New York, N.Y.

[4] We also have imposed a number of monetary forefeitures on United's stations. *See, e.g., Hawaiian Paradise Park Co.*, 10 FCC 2d 59, 63 (1967); *United Television Co. of New Hampshire*, 49 FCC 2d 1163 (1974) (WMUR–TV).

[5] *United Television Co.*, 46 FCC 2d 698 (1974) (WFAN–TV) and *United Television of New Hampshire*, 46 FCC 2d 702 (1974) (WMET), *aff'd*, 514 F. 2d 279 (D.C. Cir. 1975); *United Broadcasting of Florida, supra* (WFAB); *United Television Co., supra* (WOOK (AM)).

In the first two decisions, we revoked two of United's television stations because they had been dark for more than two years, thereby depriving viewers of service over those frequencies. In the latter two, we denied two radio station renewals, finding that United was unfit to operate those broadcast facilities.

[6] *United Television Co. of New Hampshire*, 46 RR 2d 655 (1979) (WMUR–TV and KECC–TV). In a 1974 Initial Decision, ALJ Ernest Nash found that Richard Eaton had made improper payments to an ABC official to improve the terms of network affiliation agreements. The ALJ ordered United to sell those television stations at once, granting the renewal applications for that purpose only. FCC 74D–52, released Sept. 12, 1974. Ultimately, the Commission allowed the sales to go forward, noting that we were unable to distinguish that case from others involving the same improper scheme where license renewals had been granted. *See Melody Music, Inc. v. FCC*, 345 F. 2d 730 (D.C. Cir. 1965). That case holds that the FCC must treat similarly situated parties alike unless it explains its reasons for differential treatment in light of the purposes of the Communications Act.

[7] *Friendly Broadcasting Co.*, Docket No. 19412 (released Feb. 25, 1977) (Initial Decision) (WLYT–FM and WJMO) (appeal pending).

[8] In the *WFAB* designation order, we said that if United were found otherwise qualified in other then-pending cases involving its licenses, the grant of authorizations requested there was to be withheld until *WFAB* was decided. We also ruled that the "resolution of issues in [*WFAB*] shall be binding on any other licensee commonly owned and controlled . . . and will be *res judicata* as to any such other licensee." 38 FCC 2d at 957.

In denying WFAB's renewal application in 1975, we observed that none of the proceedings specifically referenced in the above-quoted designation order had been resolved "in the manner recited [in the] order so as to require suspension pending the outcome of the instant proceeding." 55 FCC 2d at 833 n. 2. This is the first time, therefore, that we have considered—in accordance with the second phrase quoted above—*WFAB*'s impact on another United-controlled license.

[9] On September 1, 1978, Hispanic filed along with its construction permit application a Petition to Designate for Oral Argument, Deny Renewal Application and Grant Competing Application. Thereafter, District Broadcasting Co. filed a mutually exclusive application. As a result, Hispanic's request for a license without an evidentiary hearing cannot be granted.

[10] District would also have us explore the impact of our revocation of United's WFAN–TV and WMET, *see* note 5, *supra*, and the misconduct established in *United Television Co. of New Hampshire*, note 6, *supra*.

[11] 47 U.S.C. § 309(e).

that prior adverse findings cannot be conclusive as to its fitness to operate WOOK(FM).[12]

II. Discussion

A. Relevance of United's Prior Disqualifications to This Case

7. Under the Communications Act, the Commission may not issue a broadcast license unless that grant would serve the public interest.[13] In making that determination, we must be confident that the licensee will be law-abiding in the operation of the station.[14] This obligation stems from the fact that a broadcast licensee is a public trustee, entrusted with the use of a precious resource, and should accordingly maintain a high standard of conduct.[15] If the licensee is an absentee owner, he must impose adequate supervisory controls to ensure that the station is run in a manner consistent with applicable law and regulations.[16] Otherwise "the key element of the present system—accountability to the public and the Commission—would be lost."[17]

8. In the case of a renewal applicant, the licensee's past broadcast performance "affords the 'best evidence'"[18] of what we can expect from that broadcaster in the future. Of course, predicting future conduct is a complex task. But, to the extent that patterns of conduct emerge, the predictive value of that record is greatly enhanced. The Commission ordinarily evaluates the licensee's conduct at the station in question in deciding whether renewal would serve the public interest. Sometimes, however, behavior outside the station has a direct bearing on the predictive judgment to be made. For example, undesirable conduct by a licensee at one station or in connection with one license application has been deemed relevant to a party's fitness to operate other stations.[19] Even misconduct outside the broadcasting arena altogether has been deemed highly relevant to our licensing functions when it "bears a reasonable relationship to an applicant's ability to operate a station in the public interest."[20]

9. We agree with United that a broadcaster's loss of one license does not invariably compel the conclusion that grant of another license to that same broadcaster would be contrary to the public interest. For example, in *Donald W. Reynolds*, 65 FCC 2d 451 (1977), we renewed licenses belonging to a multiple owner who had earlier lost a television station.[21] The earlier license loss resulted from inadequate supervision and there was no evidence that Reynolds had known of the wrongdoing at that station. Since non-renewal was premised on the licensee's negligence, we felt that the licensee, once aware of the shortcomings that warranted a license loss, could be trusted (in the absence of facts suggesting otherwise) to ensure that other commonly held stations were run in conformity with Commission standards.

10. On the other hand, United misconstrues the law when it claims that we must dismiss Hispanic's petition to deny because it does not allege specific facts about misconduct at WOOK(FM). That showing is not required by section 309(d)(1) of the Communications Act, 47 U.S.C. 309(d)(1), which simply states that a petition to deny must contain specific factual allegations "sufficient to show that * * * a grant of the application would be *prima facie* inconsistent with" the public interest. The statute further provides that an application shall not be granted if a substantial and material factual question exists or for any other reason we are unable to make the requisite public interest determination. *See* 47 U.S.C. 309(d)(2). By any reasonable benchmark, the past adverse determinations against United raise a *prima facie* question about its qualifications to operate WOOK(FM). This is so because the misconduct reflects a pattern by United at various stations to disregard applicable rules and even Commission admonitions.

11. United also misperceives our prior case law when it argues that its previous license losses cannot be considered here because no factual nexus has been shown between those rulings and the operation of WOOK(FM). United's heavy reliance on our *Hernreich* decisions, see *KFPW Broadcasting Co.*, 47 FCC 2d 1090 (1974) and 54 FCC 2d 201 (1975), is misplaced. Hernreich, the licensee's principal stockholder, made improper payments to improve the terms of a network affiliation agreement with one of its television stations, and that station's renewal application was denied as a result. The Commission at the same time renewed another co-owned television station, since

> Hernreich's misconduct in no manner touched station KFPW–TV, which commenced broadcasting almost two years after the [misconduct] * * *. In view of the absence of any evidence of misconduct committed at KFPW–TV *and the unlikelihood that the misconduct committed at KAIT–TV will be repeated in his operation of station KFPW–TV*, we are convinced that the public interest would be served by the grant of the license * * * of KFPW–TV. 47 FCC 2d at 1095–96 [emphasis added].[22]

In other words, after expressly considering the issue, the Commission determined that the misconduct at one station was not the kind that would affect the operation of the other station. We cannot make that judgment here. United's past misconduct is serious, repetitive, far-flung, and exclusively within its broadcast operations. Significantly, it recurred despite repeated administrative measures by this agency. While there is no direct evidence that Eaton, United's controlling stockholder, actually knew of or personally participated in that

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[12] United's arguments center on *WFAB*, hardly mentioning its disqualification at co-located WOOK(AM). *See, e.g.*, United Opposition at 5 ("In essence, Hispanic is requesting the Commission to *assume*, without the benefit of *any* factual inquiry, that because control and supervision was held to be inadequate with regard to WFAB, United's renewal application should be summarily denied.") (Emphasis in original.)

[13] *See* 47 U.S.C. § 309.

[14] *White Mountain Broadcasting Co.* v. *FCC*, 598 F.2d 274, 277 n.8 (D.C. Cir.), *cert. denied*, 444 U.S. 963 (1979). *See FCC* v. *American Broadcasting Co.*, 347 U.S. 284, 290 (1954).

[15] *See* 47 U.S.C. § 301; *Mansfield Journal Co.* v. *FCC*, 180 F.2d 28,33 (D.C. Cir. 1950); *Golden Broadcasting Co.*, 68 FCC 2d 1099, 1107 (1978).

[16] *Western Communications, Inc.*, 59 FCC 2d 1441, 1450, *recon. denied*, 61 FCC 2d 974 (1976), *reversed in part on other grounds sub nom. Las Vegas Valley Broadcasting Co.* v. *FCC*, 589 F.2d 594 (D.C. Cir. 1978); *WLLE*, 65 FCC 2d 774 (1977); *Continental Broadcasting, Inc.*, 15 FCC 2d 120 (1968), *recon. denied*, 17 FCC 2d 489 (1969), *aff'd*, 439 F.2d 580 (D.C. Cir.), *cert. denied*, 403 U.S. 905 (1971).

[17] *Trustees of the University of Pennsylvania*, 69 FCC 2d 1394, 1396 (1978), *recon. denied*, 71 FCC 2d 416 (1979).

[18] *Central Florida Inc. v. FCC*, 598 F.2d 37, 43 (D.C. Cir. 1978), *reh'g denied*, 598 F. 2d 67 (D.C. Cir. 1979) (*per curiam*).

[19] *See, e.g., WIOO, INC.*, 67 FCC 2d 444 (1978) (misconduct in connection with FM license application raised questions whether party had requisite qualifications to hold AM license); *Star Stations of Indiana*, 51 FCC 2d 95 (1975) *aff'd sub nom. Star Broadcasting v. FCC*, 527 F.2d 853 (D.C. Cir. 1975), *cert. denied*, 425 U.S. 992 (1976) (wide variety of misconduct at three broadcast stations supported decision not to renew all five of broadcaster's licenses); *Faulkner Radio, Inc.*, 61 FCC 2d 23 (1976) (broadcaster's conduct in connection with strike petition raised substantial question about fitness to retain other FCC licenses).

[20] *Violations by Applicants of Laws of the United States*, 42 FCC 2d 399, 400–01 (1951) (reprint). *See e.g., Westinghouse Broadcasting Co.* 44 FCC 2770 (1962); *Mansfield Journal Co. v. FCC*, 180 F.2d 28 (D.C. Cir. 1950); *TV–9, Inc. v. FCC*, 495 F.2d 929 (D.C. Cir. 1973), *cert. denied*, 419 U.S. 986 (1974).

[21] *See Western Communications, Inc.*, 59 FCC 2d 1441, *recon. denied*, 61 FCC 2d 974 (1976), *reversed in part on other grounds sub nom. Las Vegas Valley Broadcasting Co.* v. *FCC*, 589 F.2d 594 (D.C. Cir. 1978).

[22] We also approved Hernreich's acquisition of an additional license. *Nourk Investment Co.*, 53 FCC 2d 923 (1975). The Commission on reconsideration reversed its non-renewal of KAIT (TV) and granted that application. *George T. Hernreich*, 72 FCC 2d 512 (1979). However, the reasons for that reversal have no bearing on this case.

misconduct,[23] the track record built by his stations suggests that the United organization is either deliberately flouting FCC rules or is irremediably incompetent.[24] In either case, we are not confident at this juncture about United's ability—or willingness—to operate WOOK(FM) in conformity with its obligations as a licensee.[25]

12. A hearing is now underway to determine the ultimate disposition of the frequency. We will therefore specify the addition of an issue to consider the matter. If United is found basically qualified, its qualifications must be compared in this respect with those of the other applicants. United may introduce mitigating evidence as appropriate.[26]

B. Application of Collateral Estoppel

13. The final question to be resolved is the extent to which United is precluded from relitigating prior findings against it in this proceeding. In the *WFAB* designation order, we stated that that case was to be *res judicata* as to any other commonly controlled by United. *See* note 8 *supra*. Therefore, each party has addressed the issue of the applicability of *res judicata* to Commission proceedings.

14. We did not intend, in *WFAB*, to determine United's right to hold other Commission licenses; rather we meant to preclude United from relitigating any adverse findings made there in later proceedings and to ensure that such findings would be taken into account to the extent they raised a negative inference about United's fitness to hold other licenses.[27] Therefore, collateral estoppel, not *res judicata*, is applicable in this case, and we need not reach many of United's argument about the proper application of that principle in administrative proceedings.[28]

15. In *RKO General, Inc.*, 82 FCC 2d 291 (1980), we explained the difference between the two doctrines:

> *Res judicata* takes effect when a final judgment has been entered by a competent authority on the merits of a cuase of action. The result of its application is that parties are precluded from relitigating not only matters that were decided but also matters that could have been litigated as part of that action. If, however, the second cause of action is a different cause of action, the principal of collateral estoppel applies. In that case the prior judgment precludes relitigation only of those matters which actually were in issue and upon which the decision was rendered. As one commentator has observed, "The essence of collateral estoppel by judgment is that some question or fact in dispute has been judicially and finally determined by a court of competent jurisdiction between the same parties or their privies." * * * It is well settled * * * that FCC licensing proceedings are adjudications subject to the principles of *res judicata* and collateral estoppel.[29]

16. The United States Court of Appeals for the District of Columbia Circuit recently confirmed the applicability of collateral estoppel to administrative proceedings. *Nasem* v. *Brown*, 595 F.2d 801 (D.C. Cir. 1979). The court there held that:

> Application of the doctrine of collateral estoppel represents a decision that the need of judicial finality and efficiency outweigh the possible gains of fairness and accuracy from continued litigation of an issue that previously has been considered by a competent tribunal.

595 F.2d at 806. The *Nasem* decision indicates that collateral estoppel applies to administrative proceedings where the party being estopped from relitigation has had an adequate opportunity to litigate its claims. In both the *WOOK(AM)* and *WFAB* proceedings, United exercised its opportunity to litigate the questions surrounding its operation of those stations in evidentiary hearings which were fully adversary in nature, complete with testimony, cross examination, exhibits, briefs and argument.[30]

17. A question remains about the extent to which collateral estoppel bars relitigation of each of the several independent findings in *WOOK(AM)*. United intimates that since that decision was judicially affirmed on the basis of United's technical violations alone [31]—with no mention of the validity of the other, separate grounds for non-renewal—it is entitled to relitigate the other issues before we may consider their impact here.[32] We agree that in cases involving alternative holdings, strictly speaking, collateral estoppel only attaches to those grounds on which a reviewing court rests its decision.[33] In any event, we do not interpret the foregoing rule to entitle United to relitigate before this Commission the other misconduct at *WOOK(AM)*. United has fully litigated those issues before this agency; we have already closely examined the substantial record in *WOOK(AM)* and are confident of the legal analysis in that case. In these circumstances, "finality and efficiency outweigh the possible gains of fairness and accuracy" [34] from relitigation of those matters *in this forum*. As we see it, United will still be able to challenge those earlier, unaffirmed grounds in the U.S. Court of Appeals if those grounds are part of an adverse determination against it in this case.[35]

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[23] *But see United Television Co. of New Hampshire*, FCC 74D-52, released Sept. 12, 1974 (Initial Decision).

[24] While the actions of those in a position to control the licensee are obviously important to any evaluation of the licensee's qualifications, *see, e.g., Star Stations of Indiana, supra*, the fact that a principal is not directly implicated in wrongdoing does not automatically give the licensee a "clean bill of health." *Cf. Western Communications, Inc., supra; Continental Broadcasting, Inc., supra*. By the same token, even if United submits an application for involuntary transfer of control due to Richard Eaton's recent illness, (*see* United's Notification Concerning Control of Licensee, received March 26, 1981, and Supplement, received April 21, 1981) a serious question would still remain about the soundness and reliability of the licensee's operations, and thus, about United's basic qualifications.

[25] Nor did we, as United maintains, previously determine that *WOOK(FM)* has no bearing upon its qualifications to retain WOOK(AM) "in the absence of any violations regarding that facility." United Opposition at 12, citing *In re Oppenheimer*, 65 FCC 2d 443 (1977). In *Oppenheimer*, we concluded that United's decision to switch the format WOOK(FM) did not violate FCC rules. In dictum we stated that "[n]o inquiry was conducted [in *WOOK(AM)*] into United's operation of its Washington, D.C., FM facility; and, thus, no finding has been made that it is unqualified to operate that station." 65 FCC 2d at 444. That observation hardly represented a finding that *WOOK(AM)* had no bearing on United's qualifications to operate WOOK(FM). The question was not then before us.

[26] 47 CFR 0.341(a).

[27] *Cf. KFPW Broadcasting Co.*, 47 FCC 2d 1090 (1974), where we included similar language but in the end did not apply adverse findings in connection with KAIT(TV) to other Hernreich stations because we were convinced that Hernreich's misconduct was limited solely to that facility and *by its nature was unlikely to recur elsewhere. See also Lorain Journal Co.* v. *FCC, 351 F.2d 824, 831 n. 10 (D.C. Cir. 1965); Tipton County Broadcasters*, 37 FCC 191 (1961).

[28] Indeed, it seems fairly obvious that a prior decision regarding one of a multiple owner's licenses can be considered later if it is relevant to other commonly held stations (assuming collateral estoppel principles are satisfied), regardless of whether language to that effect is specifically included.

[29] 82 FCC 2d at 312-13 (citations omitted). *See, e.g., Gordon County Broadcasting Co.* v. *FCC*, 446 F.2d 1335, 1338 (D.C. Cir. 1971); *Tonah-Mauston Broadcasting Co.* v. *FCC*, 306 F.2d 811, 813 (D.C. Cir. 1962); *WIOO*, 68 FCC 2d 127, 128 (1978).

[30] *Nasem* recognized an exception to the applicability of collateral estoppel to administrative proceedings where there is a difference in the "quality or extensiveness of procedures followed in the two courts." 595 F.2d at 806. Since the "quality or extensiveness" of procedures to be followed in the WOOK(FM) hearing will be no different than those followed in the WOOK(AM) and WFAB proceedings, there is no reason to exempt this proceeding from the collateral estoppel doctrine.

[31] The Court of Appeals, in affirming the Commission stated:

> In our view, the long history of persistent violations of [the Commission's technical] rules was a sufficient reason for disqualification. The Commission's decision is therefore affirmed on the basis of its discussion of this issue . . . .

565 F.2d at 699.

[32] United Opposition at 19 and n.16.

[33] 1B *Moore's Federal Practice*, § 0.443[5], at 3921 n.10.

[34] *Nasem* v. *Brown*, *supra*, 595 F.2d at 806.

[35] United's disingenuous statement that it does not "concede the accuracy of the adverse findings" in *WFAB* because that decision was not judicially

Continued

18. One additional matter needs to be resolved here. Some confusion exists as to the scope of our reservation of jurisdiction in paragraph 5 of the designation order. Our retention of jurisdiction was limited to final determinations of past misconduct at other Eaton-controlled stations.[36] Requests for issues regarding United's operation of *WOOK(FM)* should be made to and ruled on by the presiding Administrative Law Judge.

19. Accordingly, it is ordered, that, the issues in this proceeding ARE ENLARGED, by adding the following issue:

To determine whether, in light of the Commission's findings and conclusions in *United Broadcasting of Florida, Inc.*, 55 FCC 2d 832 (1975), *recon. denied*, 60 FCC 2d 816 (1976) and *United Television Co.*, 55 FCC 2d 416 (1975), *recon. denied*, 59 FCC 2d 663 (1975), *aff'd sub nom. United Broadcasting Co. v. FCC*, 569 F.2d 699 (D.C. Cir. 1977), *cert. denied, 434 U.S. 1076 (1978), United Broadcasting Company has the basic and/or comparative qualifications to be the licensee of Station WOOK(FM).*[37]

20. It is further ordered that the burden of proceeding with the introduction of evidence and the burden of proof with respect to the above issue shall be upon United Broadcasting Co., Inc.

21. It is further ordered, that Hispanic Broadcasting Corporation's Petition to Designate for Oral Argument, Deny Renewal Application and Grant Competing Application, IS DENIED to the extent herein indicated.[38]

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-13721 Filed 5-6-81; 8:45 am]

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reviewed. (United Opposition at 15 n.10), does not alter the finality of that decision. United there forfeited its right to judicial review because it did not file a timely appeal. Unless a Commission action is challenged in a timely manner it becomes final for all intents and purposes. *See* 47 U.S.C. § 402(c). United's position is, therefore, of no legal significance.

[36] For that reason, we will not specify an issue to consider the ALJ's findings in *United Television Co. of New Hampshire, supra*, note 6. While United fully litigated that case before the ALJ, we did not specifically pass upon the accuracy of the findings made there. However, if the outcome of the Commission's review of *Friendly Broadcasting Co., supra* note 7, is adverse to United and occurs while this proceeding is still before the ALJ, the ALJ shall consider that ruling in conjunction with the issue specified in this Order, *if doing so would not cause appreciable delay or administrative inefficiency*. If such consideration is not practicable, *Friendly's* impact would be considered in any review proceding brought by United.

[37] No issue will be added to assess the impact of *WFAN(TV)* and *WMET*, *see* note 5, *supra*, on United's qualifications. We revoked those licenses because United for financial reasons could not continue to operate the stations. Without more, those revocations do not bear a reasonable relationship to United's fitness to operate WOOK(FM).

[38] In our designation order in this proceeding, all predesignation issue pleadings were dismissed subject to the parties' being allowed to replead their requests for specification of issues before the presiding Administrative Law Judge. However, we indicated specifically that District's request for an issue against United based on its past broadcast misconduct at other stations would be considered in conjunction with Hispanic's petition. *See* United Broadcasting Company, Inc. FCC 80-529, released September 30, 1980, at paragraph 2.

[1] Raide filed unopposed petitions requesting extensions of time to respond to Finger Lakes' petition to deny. The petitions are granted and the opposition accepted.

[FCC 81-169; BC Docket Nos. 81-237-81-238; File Nos. BP-790620AA, BP-800314AC]

Broadcast Facilities and AGK Communications, Inc.; Consolidated Hearing on Stated Issues

In re applications of Robert Raide tr/as Broadcast Facilities Penn Yan, New York, Req: 850 kHz, 500 W, DA, Day BC Docket No. 81-237, File No. BP-790620AA; AGK Communications, Inc., Cazenovia, New York, Req: 850 kHz, 500 W, 2.5 kW-LS, DA-2, U, BC Docket No. 81-238, File No. BP-800314AC; for construction permit.

Memorandum Opinion and Order

Adopted: April 9, 1981.

Released: April 17, 1981.

By the Commission: Chairman Ferris not participating.

1. The Commission has under consideration (a) the above-captioned mutually exclusive applications for new AM broadcast stations, (b) a petition to deny Raide's application filed by Finger Lakes Radio, Inc., licensee of station WFLR, Dundee, New York, [1] (c) an informal objection to Raide's application filed by Cornell University, licensee of station WHCU, Ithaca, New York, (d) Raide's motion to reject AGK's application as unacceptable for filing, and (e) related pleadings.

2. *Rober Raide tr/as Broadcast Facilities.* Because Raide's proposed station would compete with Finger Lakes's WFLR, we find petitioner has standing as a party in interest within the meaning of Section 309(d) of the Communications Act of 1934, as amended. *FCC* v. *Sanders Bros. Radio Station*, 309 U.S. 470 (1940).

3. The petition and informal objection will be discussed together because Finger Lakes's main argument is Cornell's only one. Both parties have contended that Raide's proposed 25 mV/m contour would significantly overlap the 2 mV/m contour of second-adjacent-channel WHCU, in violation of § 73.37 (a) of the Commission's rules. Finger Lakes argues that overlap is expected based on the conductivities shown FCC Figure M-3, that Raide's measurement data rebutting its M-3 predictions are defective and unreliable, and that petitioner's own measurement data show prohibited overlap. Cornell submitted measurement data also indicating substantial contour overlap.

4. In reply to Finger Lakes, Raide disputes the conclusion that Figure M-3 indicates there would be overlap. Further, he contends that petitioner's spot measurements fall fatally short of the Commission's measurement standards (§ 73.186 of the rules) in that they were taken at random locations within Raide's proposed 25 mV/m contour rather than along particular radials from WHCU. Moreover, Raide states he could not duplicate petitioner's measurements, from which he concludes that the measurements were incorrectly made.

5. In an effort to settle the overlap question, Raide and representatives of Cornell jointly made measurements on September 10, 1980.[2] Raide subsequently submitted the measurement data and his conclusion that they show there would be no prohibited contour overlap between WHCU and Raide's proposed station. Neither Finger Lakes nor Cornell has opposed the measurements submitted or Raide' conclusion drawn from them,[3] and independent analysis of the measurements by our staff confirms that there would be no prohibited overlap.[4] Thus we find no merit in this argument by Finger Lakes and Cornell, and dismiss the latter's informal objection.

6. One of petitioner's remaining charges is that Raide's transmitter site is too small for the use proposed. As a result, petitioner contends that the towers cannot be erected far enough form the property boundaries to satisfy zoning requirements, the necessary guy

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[1] Finger Lakes was invited to participate, but did not.

[2] Cornell formally withdrew its objection to the Raide application on April 8, 1981, but had previously advised the Commission that it concurred with Raide's analysis of the joint measurements.

[4] Because valid measurement data supersedes M-3 conductivities, the dispute about possible overlap based on M-3 is moot. Further, Finger Lakes' random cluster measurements are without evidentiary merit, as § 73.186(a)(1) of the rules clearly requires that field strength measurements be made on radials.

wires cannot be installed within the property available, and an adequate ground system cannot be provided. In his opposition Raide does not concede the deficiencies charged, but states that he has "made arrangements to secure additional land," and submits a plat of the entire property to be acquired. The application has not been amended to show the enlarged site.[5] However, Raide's representation in his opposition is sufficient to rebut Finger Lakes' contentions that the size of the site proposed renders it in effect unavailable. Petitioner's objections to the revised site proposal are essentially speculative, and do not raise a substantial question that the larger site indicated is not available. No issue is warranted.

7. Finally, petitioner contends that Raide has underestimated the actual costs of construction by at least $36,425, and is not financially qualified. Many of the contested costs concern installation and construction that Raide insists he will personally perform. While this may be unusual, it is not inherently improbable, and petitioner's unsupported arguments to the contrary are unconvincing. As to challenged land and equipment costs, Raide has shown that these are on-hand or budgeted for.[6] Finally, Raide has shown net liquid assets of $75,000 to finance construction and operation costs of $59,150, leaving a margin of over $15,000 to meet any unanticipated costs. Thus, even assuming costs were increased to include a remote-control system (which Raide says he will not need, though he has not amended his application to so indicate) and increased professional fees (which Raide admits, but again has not amended his financial plan accordingly), applicant has a sufficient cushion of funds available to absorb the additional costs. Therefore, we find the applicant financially qualified.

8. *AGK Communications, Inc.* Raide's motion to reject AGK's application as unacceptable for filing argues that AGK's proposal would violate the Commission's regional concentration rule.[7] AGK is the licensee of WAQX(FM), Manlius, New York; and two of AGK's principals are also principals in the licensees of WCGR and WFLC(FM), Canandaigua, New York, and WDNY, Dansville, New York. Cazenovia, Manlius, and Dansville are all within 100 miles of Canadaigua. Raide states that his measurements of WCGR's signal indicate its 0.5 mV/m contour would overlap the proposed Cazenovia station's 0.5 mV/m contour as depicted in AGK's application.[8] AGK responds that the two contours would be at least 2.5 miles apart, but bases its location of the WCGR 0.5 mV/m contour on Figure M–3. Since Raide's measurement data supersedes the M–3 conductivities, a substantial question of compliance with § 73.35(b) of the rules is presented, and an appropriate issue must be specified.

9. Analysis of the financial data AGK submitted reveals that $307,893 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$217,393
Land and building	28,500
Other construction costs	27,000
Operating costs	35,000
Total	307,893

AGK plans to finance construction and operation with one bank loan for $235,000 and a second for $100,000. However, the commitment for the larger loan was only in effect for six months from March 11, 1980 and has expired. Further, the commitment letter for the smaller loan does not specify the terms and conditions of the proposed loan. A limited financial issue must be specified.

10. *Other matters.* Although for different communities, the two proposals would serve common areas. Consequently, in addition to an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will also be specified.

11. Except as indicated by the issues specified below, both applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

12. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether grant of the application of AGK Communications, Inc. would violate § 73.35(b) of the Commission's Rules with respect to regional concentration of control.

2. To determine with respect to AGK Communications, Inc.:

a. The source and availability of sufficient funds to construct the proposed station and operate it for three months, and

b. Whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary service to such areas and populations.

4. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

5. To determine, in the event it be concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, that the petition to deny filed by Finger Lakes Radio, Inc. and the informal objection filed by Cornell University, both opposing the application of Robert Raide tr/as Broadcast Facilities, are denied and dismissed, respectively.

14. It is further ordered, that the motion to reject Robert Raide filed against the application of AGK Communications, Inc. is granted to the extent indicated, and is denied otherwise.

15. It is further ordered, that Robert Raide shall file the amendments

[5] The change relates to information called for by Questions 10 and 11 of Section V–A of the application form. A formal amendment is thus required. 47 CFR 1.65.

[6] A dispute as to whether Raide's proposed used transmitter (on hand) is type-accepted is overblown. The specific transmitter is of a type (GE XT1A) that is type-accepted and on our type-accepted list. The additional identification of model number (4XT1A–1) does not alter the acceptability.

[7] Section 73.35(b) of the Commission's rules provides in pertinent part that an undue concentration of control will be found to exist if "any party or any of its stockholders, officers or directors * * * have a direct or indirect interest in, or be stockholder, officers or directors of * * * three broadcast stations in one or several services, where any two are within 100 miles of the third (measured city to city), if there is primary service contour overlap of the stations."

[8] Raide also argues that contour overlap between WAQX and the proposed station would violate § 73.35(b). Yet he apparently overlooks Note 11 to that section of the rules, which provides that an AM/FM combination in the same or nearby towns are considered a single station for purposes of the regional concentration rule. Manlius and Cazenovia are only 9.2 miles apart, and there is no question of violation of the rule. However, any grant to AGK must be subject to a divestiture condition in case we should adopt rules prohibiting commonly owned AM and FM stations in the same market. *Public Notice*, FCC 79–376, Mimeo No. 14032, 45 RR 2d 1327 (released June 8, 1979).

indicated in paragraphs 6 and 7 above within 30 days after this Order is published in the Federal Register.

16. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

17. It is further ordered, that pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicants shall give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-13718 Filed 5-6-81; 8:45 am]

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[FCC 81-201]

WAFA Broadcasting, Inc.; Designating Applications for Hearing on Stated Issues

In re application of WAFA Broadcasting, Inc., Warner Robins, Georgia, Req: 1470 kHz, 1 kW, 500 W-LS, DA-N, U, BC Docket 81-277, File No. BP-790530A0; for construction permit.

Memorandum Opinion and Order

Adopted: April 23, 1981.

Released: May 4, 1981.

1. The Commission has before it for consideration: (i) The above-captioned application of WAFA Broadcasting, Inc. (WAFA); (ii) a petition to deny the application, filed by WRBN, Inc. (WRBN), licensee of stations WQCK(AM) and WRBN-FM, Warner Robins, Georgia; and (iii) related pleadings.[1]

2. Because WAFA's proposed station would compete with WRBN's stations, petitioner has standing as a party in interest within the meaning of Section 309(d) of the Communications Act of 1934, as amended. *FCC* v. *Sanders Bros. Radio Station*, 309 U.S. 470 (1940).

3. WRBN's principal allegations are that: (i) WAFA's proposal does not comply with § 73.24(j) of our rules to the extent that the applicant claims; (ii) the proposed facilities may adversely affect operation of WQCK due to their proximity; (iii) the prior sole stockholder of WAFA, who has been convicted of a felony, remains a party in interest to the application; (iv) WAFA violated §§ 1.65 and 73.3514 of our rules by not continually reporting all changes in circumstances; and (v) WAFA is not financially qualified.

4. *Technical matters.* Section 73.24(j) of the Commission's rules requires every AM proposal to provide 25 mV/m service to the business district of the city to be served and 5 mV/m service to all its residential areas (at night an interference-free signal, if of a higher value). WAFA states that its daytime proposal satisfies these requirements, but that its nighttime interference-free contour (34.4 mV/m) only encompasses 87 percent of Warner Robins. The applicant requests waiver of § 73.24(j).

5. In support of the request, WAFA states that "the high nighttime interference level at Warner Robins and the protection requirements on 1470 kilohertz, make 100 percent coverage of the city impossible." WAFA also cites the steady westward movement of the main business district, and maintains that in order to meet the business-district requirements of the rules, the transmitter site must be on the west side of the city. Applicant asserts that its proposal will serve all densely populated areas of the city, and that the parts of the city not served are sparsely populated. Finally, it says that 27 percent of the area its nighttime proposal would serve is now without primary AM service nighttime.[2]

6. Petitioner disputes WAFA's coverage claims. It notes that the applicant's predictions are based on a uniform soil conductivity of 4 mmho/m, the value shown on FCC Figure M3. However, it states that measurements it made for its own station (whose transmitter site is only 0.6 mile away) showed that the area's soil conductivity ranges between 1 and 3 mmho/m, even on radials that traverse the city area to be served by the proposed station. Using the conductivities indicated by these measurements, petitioner concludes that the proposed 5 mV/m daytime contour would cover only 89 percent of the city, and that the proposed nighttime interference-free contour would cover only 38.5 percent.

7. As general propositions, coverage predictions based on Figure M3 are used only when measurements have not been made (see § 73.183(c) of the rules), and measurements made from a site as close as 0.6 mile from the site in question would not usually result in significant error. But since in this case the distances to the pertinent contours are small,[3] and the signal paths consequently quite different, application of WRBN's measurement data to this proposal is of questionable validity. Nevertheless, the measurements do raise a sufficient question of compliance with § 73.24(j) both day and night to warrant exploration at hearing.

8. WRBN also contends that, due to the proximity of the proposed site to WQCK's antenna, the proposed operation would adversely affect WQCK's radiation pattern and cause cross-modulation problems. In our experience, such proximity is common, and occasionally some corrective measures are required. Petitioner recognizes that as an alternative to a hearing on this issue, any grant of the application could be appropriately conditioned; and the applicant has agreed to accept such a condition. It is therefore unnecessary to specify an issue on this matter.

9. *Ownership and character matters.* WAFA's application ws originally filed on May 5, 1976 and accepted for filing on September 14, 1977. At the time, the applicant was solely owned by Dan Callahan. Callahan was indicted for income tax fraud on January 13, 1978, and on April 7, 1978 was convicted. On May 29, 1979 the application was amended to reflect the acquisition of all of Callahan's stock by the present two stockholders.[4] However, they granted Callahan an option to reacquire 15 percent of the WAFA stock three years

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[1] Besides WRBN's petition to deny, other pleadings relating to the present application include WAFA's opposition, WRBN's reply, WAFA's supplement to its opposition, WRBN's reply to the supplement, and various requests for extensions of time. The requests are granted and all these pleadings accepted. WAFA's original application (File No. BP-20,336) was amended on May 30, 1979 to reflect a complete change in ownership. Pursuant to § 73.3571(j)(2) of the rules, it was assigned a new file number and included in a new "cut-off" list, and is to all intents a completely new application. Therefore, all pleadings relating to BP-20,336 are moot and are dismissed.

[2] WQCK's nighttime interference-free contour serves only 45.5 percent of Warner Robins.

[3] For example, according to applicant's showing, the nighttime interference-free contour lies no more than about four miles from the transmitter site.

[4] WRBN faults the transfer of Callahan's stock for abuse of Commission processes and trafficking in broadcast applications due to "selling at a profit an interest in a broadcast application which had already received the umbrella protection of the Commission's 'cut-off' rule." However, the sale stock in a mere applicant falls outside our trafficking rule (see *Mesabi Communications Systems, Inc.*, 57 FCC 2d 832 (Rev. Bd. 1976)), and thus no question of WAFA's qualifications is presented. As previously indicated, the ownership change required assignment of a new file number to the application and its inclusion in a new cut-off list.

after operation of the station is authorized. Petitioner argues that because of the option, Callahan still has an interest in the application, and that his conviction for tax fraud therefore raises questions of WAFA's character qualifications which must be considered in a hearing.[5]

10. On September 2, 1979 (after the petition to deny was filed) the option was modified so it could not be exercised without prior Commission consent or notification that consent was not required. In light of the amendment limiting Callahan's ability to exercise the option, we believe Callahan has no present interest in WAFA which would require us to pass on his qualifications now.[6] However, to insure that the public interest is protected should this application be granted and Callahan later elected to exercise his option, any construction permit must be appropriately conditioned.[7] We recognize that such scrutiny is not normally employed when persons acquire minority interests in authorized broadcast stations. But in view of the manner in which this option came into being, we believe additional scrutiny is warranted.

11. *Section 73.3514 and 1.65 matters.* WRBN next contends that WAFA has not provided the Commission information required in connection with its application. First, petitioner maintains the applicant apparently violated § 73.3514 of the rules by failing to identify its corporate treasurer in its May 29, 1979 amendment, an omission which was corrected by a September 27, 1979 amendment showing that the corporation's president (previously identified) was also its treasurer. We believe this technical violation of the rules to be inadvertent and, since corrected, not requiring further attention.

12. Petitioner also identifies three instances where it maintains WAFA violated § 1.65 of the rules by not informing the Commission of changes in its status or preposal within 30 days. First, the WAFA stock transfer already referred to occurred on April 6, 1979, but the amendment reportng it was not filed until May 29, 1979. WAFA explains that it was attempting to prepare a comprehensive amendment reflecting all changes that would be required as a result of the ownership change (including financial, ascertainment, and programming), and realizing too late its inability to accomplish this in a reasonable time, reported the ownership changes three weeks later. Second, on June 13, 1979 the WAFA by-laws were amended with respect to the resident agent; but the change was not reported until August 3, 1979. Applicant maintains the tardiness was inadvertent, that it was not concealing anything, and that the information involved is not decisionally significant. The third area WRBN identifies involves details of WAFA's financial plans relating to possibly conflicting security interests in the proposed station's equipment, and whether WAFA candidly disclosed to this Commission and the Small Business Administration (SBA) that its equipment supplier required a first lien on its equipment as a condition for extending credit. Applicant states that it did not believe the security requirements were in conflict, and that all details of its equipment purchase have since been filed. It subsequently amended its proposal to eliminate reliance on deferred equipment credit altogether.

13. Applicant's explanations for its tardiness in reporting the various changes appear reasonable, and the lapses were not lengthy. Further, we perceive no motive for concealment as to any of these matters. For example, as WAFA notes, the Commission staff attributes security terms to equipment suppliers as a matter of course. Viewed either separately or collectively, we do not believe these incidents raise any question that WAFA intended to deceive this Commission or the SBA. Nor do we believe the technical violations of § 1.65 involved were more than innocent error. We therefore reject petitioner's argument that they raise a question of WAFA's fitness to be a Commission licensee.

14. *Financial qualifications.* Analysis of the financial data WAFA submitted reveals that $204,699 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$91,456
Land and buildings	25,750
Other construction costs	43,500
Operating costs	43,993
Total	204,699

WAFA plans to finance the station with $22,000 existing capital, $6,600 prepaid expenses, and a $200,000 bank loan (of which $189,946 would be available after allowing for initial repayments), 90 percent of which is to be guaranteed by the SBA.

15. The existing capital and pre-paid expenses have been shown to be available. However, the SBA loan guarantee expired May 24, 1980, and there appear to be serious questions whether the conditions of the loan guarantee could be met. The SBA required as collateral various deeds, a first lien on all business furniture and equipment, and a guarantee on SBA Form 148 by one of the WAFA principals; but there is no evidence of WAFA's ability to satisfy these requirements. Further, the SBA requires assignment of a substantial amount of life insurance on one of the WAFA principals but it is not shown by how much this would reduce the amount available for station expenses from the claimed loan.

16. Some of these points were raised by petitioner, who also questions the SBA's earmarking for specific use some of the loan proceeds. The SBA agreement stipulated that approximately $37,300 of the loan is for reimbursement of Callahan for his "initial costs for engineering and license application fees." Even if the availability of the loan were established, subtracting this amount from the proceeds would leave WAFA without sufficient funds to construct and operate for three months. Applicant dismisses this earmarking as a mistake, states that the obligation to Callahan is a personal debt of the principals rather than of WAFA, provides a letter from the lending bank confirming its awareness of the debt to Callahan at the time it made the loan commitment, and shows the availability of a separate $40,000 loan from another bank to repay the debt. Even this loan raises questions, however. The commitment letter for the $40,000 loan states that all terms of the loan, including collateral, would be decided at a later date. Yet provision 5 of the SBA loan agreement bars the borrower from encumbering any of its assets without the lender's permission. It is therefore not clear whether the borrower or its principals have any assets, not already committed to secure the SBA-

[5] WRBN also alleges that Robert M. Richardson, applicant's local attorney, is a hidden party in interest due largely to his presence at a stockholders' meeting and his actions as agent for WAFA. However, at best these are tenuous bases for such a charge, which WAFA and Richardson have categorically denied. No substantial question warranting further exploration is raised.

[6] Petitioner's reliance on *Louis Wasmer*, 44 FCC 1171 (1957), is illfounded. The phrase "party in interest" in that case (and other cases cited in it) related to a party's standing to petition to deny an assignment application, not to ownership interests for purposes of establishing one's licensee qualifications.

[7] Petitioner's argument that Callahan's stock option circumvents the Commission's local notice requirements, which would include original stockholders, is groundless because the same situation would arise in any subsequent sale of a minority interest to a new party. In our view, the public interest is fully protected by the conditioning of any construction permit which may be issued.

guaranteed loan, with which to secure the $40,000 loan.

17. WRBN's suggestions that applicant's amendment to specify less costly equipment is suspicious, and that the interest rate specified for the SBA-guaranteed loan is either too low to be depended upon or the result of a family relationship between one of the WAFA principals and one of the bank's directors, are totally unsubstantiated, and therefore raise no question requiring exploration at hearing. Other of petitioner's arguments have been mooted by subsequent amendments. However, because of the matters discussed above, we find that WAFA has shown only $28,600 available to meet costs of $204,699. A limited financial issue must be specified.

18. *Conclusions.* In view of the foregoing, the Commission is unable to conclude that grant of the captioned application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing. Except as indicated by the issues specified below, however, the applicant is qualified to construct and operate as proposed.

19. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the proposal would provide coverage of Warner Robins, Georgia, as required by Section § 73.24(j) of the Commission's rules, and if not whether circumstances exist which warrant waiver of that Section.

2. To determine the source and availability for station construction and operation of additional funds over and above the $28,600 indicated, and whether in light of the evidence adduced, the applicant is financially qualified.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether grant of the application would serve the public interest, convenience, and necessity.

20. It is further ordered, that the petition to deny filed by WRBN, Inc. is granted to the extent indicated, and is denied in all other respects, and that WRBN, Inc. is made a party to this proceeding.

21. It is further ordered, That in the event of a grant of this application, the construction permit shall contain the following conditions:

a. In the event Dan Callahan gives notice of his election to exercise his option to purchase any stock of WAFA Broadcasting, Inc., the permittee/licensee shall notify the Commission, citing the Order that imposed this condition, within 30 days of receipt of Callahan's notice, and request permission to transfer the stock. No stock will be transferred from WAFA Broadcasting, Inc., to Dan Callahan unless the Commission has previously approved the transfer or notified the permittee/licensee that such approval is not necessary.

b. Prior to construction of the antenna authorized herein:

1. Permittee shall conduct a partial proof of performance (as defined by § 73.154 of the Commission's rules) of the nighttime directional array of AM station WQCK; and

2. Permittee shall notify AM station WQCK so it can determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring points within authorized limits.

c. After construction of the antennna authorized herein and installation of all appurtenances thereon, and before program tests are authorized:

1. Antenna impedance measurements of the daytime antenna of WQCK shall be made, and sufficient field strength measurements, obtained at least ten locations along each of eight equally spaced radials, shall be made to establish that the daytime radiation pattern is essentially omnidirectional;

2. A partial proof of performance (as defined by § 73.154 of the Commission's rules) of the nighttime antenna of WQCK shall be conducted to establish that the nighttime radiation pattern has not been adversely affected; and

3. The results of these tests shall be submitted to WQCK, and to the Commission in an appropriate application for WQCK.

d. WAFA Broadcasting, Inc. shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation patterns of WQCK.

22. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's rules, the parties shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

23. It is further ordered, that pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicant shall give notice of the hearing within the time and in the manner prescribed in the rule, and shall advise the Commission of the publication of its notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-13719 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 81-41; Transmittal No. 242]

RCA American Communications, Inc.; Tariffs FCC Nos. 1 and 2; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Investigation; extension of comment and reply comment period.

SUMMARY: Based on a motion filed by Home Box Office, Inc. an extension of time has been granted in CC Docket No. 81-41. The date for filing comments and reply cases has been extended from April 27, 1981 until May 1, 1981 and the date for RCA American Communications, Inc. to file its responses is extended from May 12, 1981 until May 14, 1981. This proceeding was initiated by *RCA American Communication, Inc.*, CC Docket No. 81-41, FCC 81-28, released February 9, 1981 and is an investigation of RCA American's tariff proposal to lease additional domestic satellite transponders to its existing customers.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan, Room 514, Common Carrier Bureau, Federal Communications Commission, 1919 M. St. NW., Washington, D.C. 20554, (202) 632-6917.

SUPPLEMENTARY INFORMATION:

In the Matter of RCA American Communications, Inc. Tariffs FCC Nos. 1 and 2.

Adopted: April 24, 1981.

Released: April 27, 1981.

By the Acting Chief, Common Carrier Bureau.

1. Before the Chief, Common Carrier Bureau is a motion for extension of time filed by Home Box Office, Inc. (HBO) requesting that we extend the time for

filing reply cases and comments from April 27, 1981, until May 1, 1981, and the date for RCA American Communications, Inc. (RCA Americom) to file its responses from May 12, 1981, until May 14, 1981. In support of the requested extension, HBO states that senior counsel handling the case were called out of town during the present week making it nearly impossible to prepare final comments by the current due date. HBO states that it has contacted all parties to this proceeding, including RCA Americom, who have stated that they will interpose no objection to the requested extensions.

2. In view of the fact that the requested extension is brief and that other parties do not object, we will grant HBO's request.

3. Accordingly, it is ordered, That the "Motion for Extension of Time" filed by Home Box Office, Inc. is granted.

Federal Communications Commission.

Maurice P. Talbot,

Acting Chief, Common Carrier Bureau.

[FR Doc. 81-13850 Filed 5-6-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Bell Tower Financial, Inc.; Formation of Bank Holding Company

May 1, 1981.

Bell Tower Financial, Inc., Stanwood, 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 99 percent or more of the voting shares of Union Trust and Savings Bank, Stanwood, 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 May 31, 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, May 1, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-13702 Filed 5-6-81; 8:45 am]

BILLING CODE 6210-01-M

The Boone Corp.; Formation of Bank Holding Company

The Boone Corporation, Lebanon, Indiana, 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 percent of the voting shares of the successor by merger to The Boone County State Bank, Lebanon, Indiana. 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 May 31, 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, May 1, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-13703 Filed 5-6-81; 8:45 am]

BILLING CODE 6210-01-M

Farmers State Bancshares, Inc.; Formation of Bank Holding Company

Farmers State Bancshares, Inc., Burns, Wyoming, 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 97 per cent of the voting shares of The Farmers State Bank of Burns, Burns, Wyoming. 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 May 31, 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, May 1, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-13707 Filed 5-6-81; 8:45 am]

BILLING CODE 6210-01-M

King Bancshares, Inc.; Formation of Bank Holding Company

King Bancshares, Inc., Kingman, Kansas, 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 92 percent or more of the voting shares of The First National Bank of Kingman, Kingman, Kansas. 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 May 31, 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, May 1, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-13704 Filed 5-6-81; 8:45 am]

BILLING CODE 6210-01-M

Republic Bancshares Corp.; Formation of Bank Holding Company

Republic Bancshares Corporation, Clearwater, Florida, has applied for the Board's approval under section 39(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 99 per cent or more of the voting shares of The Republic Bank, Clearwater, Florida. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 31, 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, May 1, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-13705 Filed 5-6-81; 8:45 am]

BILLING CODE 6210-01-M

Security Holding Co.; Formation of Bank Holding Company

Security Holding Company, Miami, Oklahoma, 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 87.68 percent or more of the voting shares of Security Bank and Trust Company, Miami, Oklahoma. 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 May 31, 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, May 1, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-13706 Filed 5-6-81; 8:45 am]

BILLING CODE 6210-01-M

Bancshares of New Jersey; Acquisition of Bank

Bancshares of New Jersey, Moorestown, New Jersey, 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 100 percent of the voting shares of Bancshares of New Jersey, Inc. Wilmington, Delaware which has applied to become a bank holding company by acquiring The Bank of New Jersey, Camden, New Jersey; The Bank of New Jersey, N.A., Morrestown, New Jersey; and Prospect Park National Bank, Wayne, New Jersey. 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 Philadelphia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 28, 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, April 29, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-13832 Filed 5-6-81; 8:45 am]

BILLING CODE 6210-84-M

Bancshares of New Jersey; Inc.; Formation of Bank Holding Company

Bancshares of New Jersey, Wilmington, Delaware, 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, less directors' qualifying shares, of the voting shares of The Bank of New Jersey, Camden, New Jersey; The Bank of New Jersey, N.A., Moorestown, New Jersey; and Prospect Park National Bank, Wayne, New Jersey. 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 Philadelphia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 28, 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, April 29, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-13833 Filed 5-6-81; 8:45 am]

BILLING CODE 6210-01-M

Bancshares of New Jersey; Bancshares of New Jersey, Inc.; Acquisition of Bank

Bancshares of New Jersey, Moorestown, New Jersey, and Bancshares of New Jersey, Inc., Wilmington, Delaware, have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares, less directors' qualifying shares, of The Bank of New Jersey, N.A., Moorestown, New Jersey, a proposed new bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the applications should submit views in writing to the Reserve Bank to be received not later than May 28, 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, April 29, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-13834 Filed 5-6-81; 8:45 am]

BILLING CODE 6210-01-M

First Gonzales Corp.; Formation of Bank Holding Company

First Gonzales Corporation, Gonzales, Louisiana, 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 at least 80 per cent of the voting shares of First National Bank of Gonzales, Gonzales, Louisiana. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 28, 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, April 29, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-13835 Filed 5-6-81; 8:45 am]

BILLING CODE 6210-01-M

Flora Financial Corp.; Formation of Bank Holding Company

Flora Financial Corporation, Flora, Mississippi, 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 83.9 percent of the voting shares of Bank of Flora, Flora, Mississippi. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 28, 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, April 29, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-13836 Filed 5-6-81; 8:45 am]

BILLING CODE 6210-01-M

Rosedale Bancshares, Inc.; Formation of Bank Holding Company

Rosedale Bancshares, Inc., Kansas City, Kansas, 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 at least 80 per cent of the voting shares of Rosedale State Bank & Trust Company, Kansas City, Kansas. 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than May 28, 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, April 29, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-13837 Filed 5-6-81; 8:45 am]

BILLING CODE 6210-01-M

Wachovia International Investment Corp.; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Wachovia, International Investment Corporation, Winston-Salem, North Carolina, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in New York, New York. Wachovia International Investment Corporation, which proposes to change its name to "Wachovia International Banking Corporation," operates as a subsidiary of Wachovia Bank & Trust Company, N.A., Winston-Salem, North Carolina.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 28, 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, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 29, 1981.

D. Michael Maines,

Assistant Secretary of the Board.

[FR Doc. 81-13838 Filed 5-6-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[F-81-8]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Alabama Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Alabama Public Service Commission involving the application of the South Central Bell Telephone Company for an increase in rates for telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: April 30, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-13689 Filed 5-6-81; 8:45 am]

BILLING CODE 6820-25-M

[F-81-7]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Kentucky Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Kentucky Public Service Commission involving the application of the South Central Bell Telephone Company for an increase in rates for telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: April 30, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-13690 Filed 5-6-81; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-81-646]

Acting Assistant Secretary for Fair Housing and Equal Opportunity

Section A. *Designation.* Each of the officials listed below is designated to act as Assistant Secretary for Fair Housing and Equal Opportunity, in the case of absence or vacancy in such position. The named officials shall serve in the order set forth.

(1) General Deputy Assistant Secretary for Fair Housing and Equal Opportunity;

(2) Deputy Assistant Secretary for Operations and Management;

(3) Associate Deputy Assistant Secretary for Enforcement and Compliance;

(4) Director, Office of Management and Field Coordination;

(5) Director, Office of Fair Housing Enforcement and Section 3 Compliance;

(6) Director, Office of HUD Program Compliance;

(7) Director, Office of Voluntary Compliance;

(8) Director, Office of Program Standards and Evaluation.

Section B. *Authorization.* Each head of an organizational unit of Fair Housing and Equal Opportunity is authorized to designate an employee under his or her jurisdiction to serve as acting head during the absence of the head of the unit. An official serving in an acting position under this section does not hold that position for purposes of the order of succession set forth in Section A.

Section C. *Functions.* The official serving in an acting capacity under this designation shall have all the powers, functions, and duties assigned to such position.

Section D. *Effective Date.* This designation is effective as of April 24, 1981.

Section E. *Supersedure.* This designation supersedes the designation effective May 24, 1979 (44 FR 40142, July 9, 1979).

Issued at Washington, May 1, 1981.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 81-13776 Filed 5-6-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A-13437]

Arizona; Proposed Partial Continuation of Withdrawal and Opportunity for Public Hearing; Public Water Reserve No. 55

As a result of the review made pursuant to Section 204(1) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754; 43 U.S.C. 1714, the Bureau of Land Management, Department of the Interior, proposes to continue in part the existing withdrawal made by Executive Order of August 28, 1918 for a period of 60 years. The following described land is included in the proposed continuation:

Gila and Salt River Meridian, Arizona

R. 11 N., R. 28 E.,

Sec. 18, NE¼NE¼SW¼, N½NW¼SE¼.

The areas described aggregate 30 acres in Apache County.

The land is segregated from operation of the public land laws, including location for non-metalliferous minerals under the mining laws. It is otherwise open to the mining and mineral leasing laws. No change in the segregative effect of the withdrawal or use of the land is proposed. By separate order, the withdrawal will be revoked as to 127.33 acres no longer needed as part of the Public Water Reserve.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before May 30, 1981. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objection to the proposed withdrawal continuation may be filed with the undersigned officer on or before May 30, 1981.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. he will review the withdrawal rejustification to ensure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

April 24, 1981.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-13683 Filed 5-6-81; 8:45 am]

BILLING CODE 4310-84-M

Initiation of Planning Activity in the Medford District, Oregon; Invitation To Comment

In accordance with 43 CFR 1601.3(g) and 1601.6-3(b), notice is hereby given of resource planning amendment activity now underway.

Description of the proposed planning action: The proposed planning action is preparation of amendments to the Josephine and Jackson/Klamath Management Framework Plans (MFPs). These MFP amendments will carry out the requirements of the Federal Land and Management Act of 1976 (FLPMA) as prescribed in 43 CFR 1601.3, 1601.4 and 1601.6-3(b). The MFP amendments and accompanying Medford District grazing management Environmental Impact Statement (EIS) will provide the basis for affected resource allocations and will define and guide subsequent management decisions within the affected resource areas within the District. The EIS is scheduled for completion by September 1983.

Identification of the geographic area to be planned: The subject area is generally located in the upper Rogue and Klamath River basins and covers portions of Coos, Curry, Douglas, Jackson, Josephine and Klamath Counties in Oregon. The planning areas are bounded by the Rogue River and Siskiyou National Forests, the Coos Bay and Roseburg BLM Districts, and the Oregon-California state line.

The general types of issues anticipated: The completed grazing EIS and plan amendments will make allocations of the following resources:

1. Range—Based on the Bureau's Soil-Vegetation Inventory Method (SVIM) it will address allocation of vegetation for livestock, wildlife, wildhorses, and watershed; stocking rates for livestock; seasons of livestock use; protection and management of riparian vegetation; rangeland improvements and the conflict with other resources such as wilderness interim management requirements, visual (scenery) resources, watershed protection, etc.

2. Wilderness—determination of wilderness suitability for future wilderness designation of Mountain Lakes, Inventory No. 11-1, and Soda Mountain, Inventory No. 11-17, Wilderness Study Areas; extent to which interim management requirements restrict use of other resources within study areas and within eventual designated areas.

3. Areas of Critical Environmental Concern (ACEC's)—identification and protection of Areas of Critical Environmental Concern (ACEC).

Areas of Critical Environmental Concern are areas where special management attention is required to protect and prevent irreparable damage to important historic, cultural or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.

Public suggestions or nominations of areas must include the following elements to be considered for study:

—A legal description of the boundaries, or show on a map or aerial photo and describe by terrain features such as roads, streams, ridges, etc.

—A description of relevance and importance to historic, cultural or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards. Illustrate objective evidence that the values are of more than local significance (for example, information or testimony from research entities, recognized scientists or consulting groups).

—Your name, address, and telephone number.

All areas will be evaluated by an interdisciplinary team under the concepts of multiple use and Bureau ACEC guidelines.

The grazing EIS and the MFP Amendments will not address land use allocations and timber management practice decisions which were analyzed in the recent Josephine and Jackson/Klamath Timber Management Plans and associated EISs.

The disciplines to be represented on the interdisciplinary Team: wildlife, fisheries, hydrology, soils science, range management, archeology, outdoor recreation planning, lands, minerals management, forestry, and economics.

Public will be notified by newspress, this **Federal Register** notice, and by special brochure mailing, and requested to respond orally or in writing on or before June 8, 1981.

The kind and extent of public participation activities to be provided: Public participation for the plan amendment process will be carried out in several ways. During the remaining portion of the inventory phase, public participation will take place on an individual basis between interested parties and the BLM. As the planning process proceeds, the public will be asked to become more formally involved through workshops, open houses, and public meetings. If appropriate, mass mailings may be used to solicit comments on controversial issues. The district multiple use advisory council will offer their perspectives in the plan preparation. Arrangements will be made to involve local planning agencies in the planning process, and state and other federal land management agencies will be contacted to assure maximum coordination and consistency between their plans and objectives with the MFP amendments at both regularly scheduled and special meetings.

Various meetings will be held in the spring and summer of 1981 with local planning boards, federal and state land management agencies, and the District Multiple Use Advisory Council. A series of public meetings and/or open houses may be held to discuss management alternatives which will be presented for public review and comment before November, 1982.

The name, title, address and telephone number of the Bureau of Land Management official who may be contacted for further information: Hugh Shera, District Manager, BLM, Medford District Office, 3040 Biddle Road, Medford, Oregon 97501. Telephone (503) 776-4173.

The location and availability of documents relevant to the planning process: Documents will be generally available for public review and will be located at the Medford District Office, 3040 Biddle Road, Medford, Oregon.

Dated: April 29, 1981.

Wayne Boden,

Acting District Manager.

[FR Doc. 81-13684 Filed 5-6-81; 8:45 am]

BILLING CODE 4310-84-M

[CA 8673]

California; Order Providing for Opening of Public Land; Correction

April 29, 1981.

In **Federal Register** Document 81-9764, appearing on page 19858, the thirteenth line of the first paragraph reading Sec. 27, Lot 4, S½SW¼, is corrected to Sec. 27, Lot 4, N½SW¼; the first line of the document reads CA 8673, it is corrected to read CA 8673 and CA 8597.

Joan B. Russell,

Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 81-13806 Filed 5-6-81; 8:45 am]

BILLING CODE 4310-84-M

[1784 (U-230)]

Salt Lake District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 92-463, that a tour and meeting of the Salt Lake District Grazing

Advisory Board will be held on June 9 and 10th, 1981.

The Public Tour will begin at 9 a.m. on June 9th at the Vernon BLM Field Camp. The tour will be of the Benmore-Vernon area.

A meeting of the Salt Lake District Grazing Advisory Board will be held on June 10th. This meeting will begin at 7:30 a.m. The purpose of the meeting will be to look at areas where Allotment Management Plans will be developed in the future. This meeting will begin at the Vernon BLM Field Camp.

The meeting is open to the public. Interested persons may make oral statements between 7:30 to 8:30 a.m. June 10 or file written statements for board's consideration. Anyone wishing to make oral statements must notify the District Manager, 2370 South 2300 West, Salt Lake City, UT 84119, by June 2, 1981. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager.

Summary minutes of the board will be maintained at the District Office and will be available for public inspection and reproduction (during business hours) within 30 days following the meeting.

Dated: April 28, 1981.

W. Cliff Yardley,

Acting District Manager.

[FR Doc. 81-13809 Filed 5-6-81; 8:45 am]

BILLING CODE 4310-84-M

Resource Management Planning; Initiation of Wilderness Studies in the Dillon Resource Area, Butte District, Montana

May 1, 1981.

In accordance with 43 CFR 1601.3(g), notice is hereby provided of resource planning activity now underway.

The proposed action is the preparation of a Wilderness Planning Amendment/Environmental Impact Statement (WPA/EIS) for eight wildnerness study areas (WSAs) in the Dillon Resource Area, Butte District. The WPA/EIS will carry out the requirements of the Federal Land Policy and Management Act (FLPMA) of 1976 and will serve to amend the Dillon Resource Area Management Framework Plan (MFP) completed in 1979. The purpose of the amendment is to determine the suitability or nonsuitability for wilderness designation of the eight WSAs. The process will result in recommendations by the Secretary of the Interior to the President as to which areas, or portions of areas, should be designated as wilderness. The final decision as to whether the WSAs should be designated components of the National Wilderness Preservation System will be made by Congress. The amendment will not address how the WSAs will be managed if they are not recommended as wilderness. Nonwilderness allocation decisions presently exist in the Dillon Management Framework Plan. The WPA/EIS is scheduled for completion by October 1982.

The Dillon Resource Area is located in southwestern Montana and covers all or portions of Beaverhead, Madison, Silver Bow, and Deer Lodge Counties. The eight WSAs that will be addressed are:

a. Ruby Mountains, MT-076-001, 26,357 acres

b. Blacktail Mountains, MT-076-002, 17,639 acres

c. East Fork of Blacktail Deer Creek, MT-076-007, 6,180 acres

d. Hidden Pasture Creek, MT-076-022, 15,475 acres

e. Bell/Limekiln Canyons, MT-076-026, 9,588 acres

f. Henneberry Ridge, MT-076-028, 9,756 acres

g. Farlin Creek, MT-076-034, 1,260 acres

h. Axolotl Lakes, MT-076-069, 6,578 acres

The study process will analyze all resource values and uses within each WSA to determine whether the area, or a portion of the area, will be recommended as suitable or nonsuitable for wilderness designation. This process will address such issues as timber production capability, motorized vehicle access, all forms of mineral activity, the grazing of livestock, land tenure, watershed and socio-economic characteristics.

Disciplines to be represented on the interdisciplinary study team are: wildlife biology, range management, forestry, wilderness, outdoor recreation planning, soils science, lands and minerals management, economics, sociology and visual resources.

The following planning criteria published in the December 19, 1980, **Federal Register**, Vol. 45, No. 246 (Draft Wilderness Study Policy), will be used in the study process.

a. Requirements for Areas Recommended as Suitable for Wilderness Designation

b. Public Comment

c. Local and Regional Socio-Economic Effects

d. Energy and Critical Mineral Resource Values

e. Consistency with Other Plans

f. Impacts on Other Resources

g. Impacts on Wilderness

h. Evaluation of Wilderness Values

i. Diversity in the National Wilderness Preservation System

These criteria will be utilized to determine the level of analysis required for each issue, assist in the formulation of alternatives and the preferred alternative and in estimating the effects of the alternatives. Public comments on the planning criteria will be solicited.

During the inventory phase, various sectors of the public will be requested to provide data needed for the analysis process. As the planning process proceeds, the public will be asked to become more formally involved through open houses and public meetings. The initial open house sessions for the purpose of obtaining public comment on the planning criteria and the issues which should be addressed in the study will be held at the following locations and times:

Date, Time and Location

May 12, 1981, 7–10 p.m.; Lima, Montana, High School

May 13, 1981, 7–10 p.m.; Sheridan, Montana, Elementary School

May 14, 1981, 1–10 p.m.; Dillon Resource Area Office, Dillon, Montana

Future meeting dates, locations and times will be announced in the **Federal Register**.

For further information contact: Harry R. Cosgriffe, Area Manager, Dillon Resource Area (Butte District), P.O. Box 1048, Dillon, Montana 59725 (406) 683-2337.

Michael J. Penfold,

State Director.

[FR Doc. 81-13804 Filed 5-6-81; 8:45 am]

BILLING CODE 4310-84-M

[UT-020-4310-84]

Salt Lake District Advisory Council; Meeting

Notice is hereby given in accordance with Public Law 92-463, that a meeting of the Salt Lake District Advisory Council will be held on June 11, 1981.

The meeting will begin at 9:00 a.m. at the Dugway Proving Ground in Dugway, Utah.

The purpose of the meeting will be to discuss the management options available to the BLM for the wild horses currently occuping the military base and make recommendations to the District Manager. Council members will be touring portions of Dugway Proving Ground during the meeting.

Interested persons may make oral statements or file written statements for the Council's consideration at 2:00 p.m., June 11 at Headquarters Building, Dugway Proving Ground. Anyone

wishing to make a statment to the Council must notify the District Manager, 2370 South 2300 West, Salt Lake City, Utah 84119 (801) 524–5348, before 4:00 p.m., June 10. A time limit may be established per person by the District Manager

Dated: April 28, 1981.

Sammy J. St. Clair,

Acting District Manager.

[FR Doc. 81-13819 Filed 5-6-81; 8:45 am]

BILLING CODE 4310-84-M

Socorro District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 94–579, that a meeting of the Socorro District Grazing Advisory Board will be held on Tuesday, June 2, 1981.

The meeting will begin at 9:00 a.m., in the Hospitality Room of the First State Bank at 103 Manzanares Avenue NE, Socorro, New Mexico.

The agenda for the meeting will include review and recommendation on 1982 rangeland improvements.

The meeting is open to the public. Interested persons may make oral statements to the board between 1:00 and 2:00 p.m., or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 198 Neel Avenue NW, P.O. Box 1219, Socorro, New Mexico 87801, by May 28, 1981. Depending on the number of persons wishing to make oral statements, a person time limit may be established by the District Manager.

Arlen P. Kennedy,

District Manager.

[FR Doc. 81-13818 Filed 5-6-81; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Classification Partially Revoked and Lands Open to Entry

May 1, 1981.

On February 6, 1970 (FR, vol. 35, No. 30, page 2901) the following described land was classified for multiple use management under the Act of September 19, 1964 and segregated from appropriation under the agricultural land laws and from sale under R.S. 2455:

Mount Diablo Meridian, Nevada

T. 19 N., R. 35 E.,
Sec. 3, S¼NW¼SW¼SE¼, S¼SW¼SE¼, SW¼SW¼SE¼SE¼;
Sec. 10, N¼NE¼NE¼, N¼S¼NE¼NE¼, N¼N¼NW¼NE¼;
Sec. 11, N¼NE¼NW¼, NE¼SW¼ NE¼NW¼, W¼SE¼NE¼NW¼, N¼SW¼NW¼, NW¼SE¼NW¼ NW¼, SE¼SE¼NW¼, NE¼NW¼ NE¼SW¼.

The land described aggregated 115 acres.

Review and evaluation of the land use capabilities of the above described land indicates that the classification is no longer valid and it is hereby revoked.

The land is now open to the operation of the public land laws, subject to valid existing rights and the requirements of applicable law. The land has been open continually to the mining laws and to applications and offers under the mineral leasing laws. All valid applications received at or before 10 a.m. on June 8, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. A drawing to determine application priority will be held if more than one application embraces, wholly or in part, the same described land.

Inquiries and applications concerning this land should be addressed to the Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, NV 89520.

John H. Trimmer,

Acting Chief, Division of Technical Services.

[FR Doc. 81-13807 Filed 5-6-81; 8:45 am]

BILLING CODE 4310-84-M

INTERNATIONAL CONVENTION ADVISORY COMMISSION

Vertebrate Species in Trade and a Report on Trade in Parrots; Meeting

Notice is hereby given in accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. Appendix I, that a meeting of the International Convention Advisory Commission will be held on Thursday, May 21, 1981, 1:30 p.m., Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C.

The Commission will consider a report on vertebrate species in trade, a report on trade in parrots, and miscellaneous other business.

For further information contact Dr. William Y. Brown, Executive Secretary, International Convention Advisory Commission, Suite 220, 1010 Wisconsin Avenue, N.W., Washington, D.C. 20007, telephone 202/343–7407. Opportunity will be given for oral or written presentations provided that appointments are made with Dr. Brown by 5:00 p.m., May 18, 1981.

Dated: May 4, 1981.

William Y. Brown,

Executive Secretary, International Convention Advisory Commission.

[FR Doc. 81-13790 Filed 5-6-81; 8:45 am]

BILLING CODE 4310-68-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; 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 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.

Dated: April 27, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC-F-14619, filed April 9, 1981. SOUTHERN FURNITURE TRANSPORT, INC. (Southern) (2003 Viscount Row, Orlando, FL 32809)—Control and Merger—Westchester Furniture Delivery, Inc. (Westchester) (4 Furniture Row, Milford, CT 06460). Representative: Maxwell A. Howell, 1511 K St., NW, Washington, DC 20005. Southern seeks authority to acquire control of all the issued and outstanding capital stock of Westchester, and to merge the interstate operating rights of Westchester into Southern for ownership, management and operation. Angelo Catanesi and Robert Piccolo, persons in control of Southern, seek authority to acquire control of said rights through the transaction. The operating rights to be acquired are contained in MC-148431 as follows: The transportation of *new furniture* and related commodities and parts over a combination of regular and irregular routes between various points and areas in MA, CT, RI, NY, PA, OH, VT, NJ, DE, MD and DC. Southern is a motor comon carrier authorized to transport *new furniture* between points in FL, GA and AL, and between FL, GA and AL, on the one hand, and, on the other, ME, NH, VT, MA, CT, RI, NY, NJ and PA.

Note.—(1) Application for temporary authority has been filed. (2) In all pending applications of Westchester, Southern must seek to substitute itself as applicant. (3) A partially directly related extension application has been filed in MC-141261 (Sub-No. 4), published in this same **Federal Register** issue.

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 252 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 quality of the human environment or 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.

Dated: April 27, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 141261 (Sub-4), filed April 9, 1981. Applicant: SOUTHERN FURNITURE TRANSPORT, INC., 2003 Viscount Row, Orlando, FL 32809. Representative: Maxwell A. Howell, 1511 K Street NW., Suite 1100, Washington, D.C. 20005. To operate as a *common carrier*, by motor vehicle transporting *furniture* and *fixtures*, and between points in FL, GA, AL and TN, on the one hand, and, on the other, points in IL, IN, MI and OH. NOTE: This application is partially directly related to a proceeding pursuant to 49 U.S.C. 11343-11344 in MC-F-14619, published in this same **Federal Register** issue. The stated purpose of this application is to replace an interline service presently being conducted between transferee and transferor. In effect, with respect to points in FL, GA, and AL, on the one hand, and, on the other, points in OH, this application will eliminate a gateway created by the merger in MC-F-14619. With respect to the remaining authority sought, this is an application for new authority and is not directly related to the finance proceeding. Thus, a filing fee of $350 is required as a condition to approval.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-13774 Filed 5-6-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register**

issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authorty.

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 service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OPI–130

Decided April 29, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler and Taylor. (Taylor not participating).

MC 129301 (Sub-20), filed April 20, 1981. Applicant: ENGLISH AND SONS CORPORATION, 412 Kingshighway, Thorofare, NJ 08086. Representative: James H. Sweeney, 468 Kentucky Ave., Williamstown, NJ 08094 (609) 629–2354. 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.

Volume No. OPY–2–060

Decided April 29, 1981.

By The Commission, Review Board No. 1, Members Parker, Chandler and Taylor.

MC 155403, filed April 20, 1981. Applicant: TECH TRANS SERVICES COMPANY, 15291 Cadiz Dr., Westminster, CA 92683. Representative: Jerome Paul (same as applicant) (714) 554–0204. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OPY–3–059

Decided May 1, 1981.

By the Commission Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 155414, filed April 20, 1981. Applicant: C & W BROKERS AND AUDIT CO., 1157 Commercial Ave., Charlotte, NC 28205. Representative: John L. Chambers (same address as applicant) (704) 333–8785. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 155485, filed April 23, 1981. Applicant: GRAEBEL MOVERS, INC., 820 So. 8th Ave., P.O. Box 1519, Wausau, WI 54401. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, (202) 785–0024. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 155494, filed April 23, 1981. Applicant: W. M. STONE & CO., INC., 109 E. Main St., P.O. Box 3447, Norfolk, VA 23514. Representative: Meade G. Stone, Jr. (same address as applicant) (804) 622–3293. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OPY–5–53

Decided April 30, 1981.

By the Commission Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 126589, filed March 9, 1981. Applicant: FRED QUINN d.b.a. QUINN MOVING AND STORAGE, P.O. Box 20063, San Antonio, TX 78220. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th Street, N.W., Washington, DC 20006, 202–833–1170. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 152849 (Sub-2), filed April 14, 1981. Applicant: S.T.S. TRANSPORT SERVICE, INC., 12400 South Keeler, Alsip, IL 60658. Representative: Patrick H. Smyth, 19 South LaSalle St., Suite 401, Chicago, IL 60603, (312) 263–2397. Transporting (1) 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., and (2) *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.

Agatha L. Mergenovich,

Secrtetary.

[FR Doc. 81-13772 Filed 5-6-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose 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.

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. OPI–135

Decided April 29, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Taylor. (Taylor not participating.)

MC 19550 (Sub-10), filed April 10, 1981. Applicant: THE OBSERVER TRANSPORTATION COMPANY, INC., P.O. Box 34213, Charlotte, NC 28234. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137 (901) 767–5600. Transporting *general commodities* (except classes A and B explosives), between points in Mecklenburg County, NC, on the one hand, and, on the other, points in Beaufort, Bertie, Camden, Carteret, Cherokee, Chowan, Clay, Craven, Currituck, Dare, Edgecombe, Gates, Graham, Green, Halifax, Hertford, Hyde, Jones, Lenoir, Macon, Madison, Martin, Mitchell, Northhampton, Onslow, Pamlico, Passquotank, Pitt, Tyrell, Warren, Washington, Wayne, and Yancey Counties, NC, and Abbeville, Aiken, Edgefield, Greenwood, Hampton, Jasper, Laurens, McCormick, Newberry, Oconne, Pickens, and Saluda Counties, SC.

MC 34361 (Sub-7), filed April 20, 1981. Applicant: A. ARNOLD & SON TRANSFER & STORAGE CO., INC., 2600 W. Broadway, Louisville, KY 40211. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036 (202) 785–0024. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with U.S. Traffic Coordinators, Inc., of Louisville, KY.

MC 34631 (Sub-8), filed April 20, 1981. Applicant: A. ARNOLD & SON TRANSFER & STORAGE CO., INC., 2600 W. Broadway, Louisville, KY 40211. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036 (202) 785–0024. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Celanese Plastics & Specialities Co., a division of Celanese Corporation of Chatham, NJ, and with Brown & Williamson Tobacco Corporation and Humana, Inc., both of Louisville, KY.

MC 52460 (Sub-326), filed April 17, 1981. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant) (918) 446–4434. Transporting *petroleum, natural gas and their products*, between Louisville, KY, Kansas City, MO, Houston, TX, and points in St. Charles Parish, LA, on the one hand, and, on the other, points in AL, AR, CO, GA, IA, KS, KY, LA, MO, MS, MT, NC, ND, NE, NM, OK, SC, SD, TN, TX, UT, and WY. Condition: The certificate to be issued here shall be limited in point of time to a period expiring 5 years from the date of issuance.

MC 52460 (Sub-327), filed April 17, 1981. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant) (918) 446–4434. Transporting *food and related products*, between points in Houston County, GA, on the one hand, and, on the other, points in AR, CO, KS, MO, and OK.

MC 109490 (Sub-26), filed April 16, 1981. Applicant: HEDING TRUCK SERVICE, INC., P.O. Box 97, Union Center, WI 53962. Representative: Ronald E. Laitsch, P.O. Box 70, Watertown, WI 53094 (414) 261–9725. Transporting *food and related products*, between points in the U.S.

MC 111401 (Sub-612), filed February 26, 1981, and previously noticed in **Federal Register** issue of March 18, 1981. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant) (405) 234–4663. Transporting *petroleum products* (a) between points in Lincoln County, OK, on the one hand, and, on the other, points in FL, IN, and PA, and (b) between points in Sedgwick County, KS and points in IA.

Note.—This republication corrects the commodity description.

MC 113751 (Sub-44), filed April 20, 1981. Applicant: HAROLD F. DUSHEK, INC., 10th & Columbia Sts., Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719 (608) 273–1003. Transporting *food and related products*, between points in Portage County, WI, 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 115000 (Sub-4), filed April 20, 1981. Applicant: JAMES A. BLOCKER, d.b.a. BLOCKER TRANSPORTATION, 910 W. 14th Ave., Blythe, CA 92225. Representative: James A. Blocker (same address as applicant) (714) 922–0221. Transporting *machinery, farm equipment, and farm supplies*, between points in CA, AZ, and NM.

MC 120981 (Sub-37), filed April 20, 1981. Applicant: BESTWAY EXPRESS, INC., 905 Visco Drive, Nashville, TN 37210. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601 (502) 227–7384. Transporting *such commodities* as are dealt in by manufacturers and distributors of artificial Christmas trees and decorations, between points in Sumter County, GA, Kane County, IL, Fayette County, KY, Greene County, NY, and Travis County, TX, on the one hand, and, on the other in AL, AR, CT, DE, FL,

GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC.

MC 126551 (Sub-6), filed April 15, 1981. Applicant: PHILBORO COACH CORP., 1065 Belvoir Rd., Norristown, PA 19401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210 (703) 525-4050. Transporting *passengers and their baggage*, in round-trip charter operations, beginning and ending at points in Philadelphia, Bucks, Montgomery, Chester, and Delaware Counties, PA, and those in New Castle County, DE, and extending to points in the U.S.

MC 133920 (Sub-28), filed April 22, 1981. Applicant: HOWARD SHEPPARD, INC., P.O. Box 755, Sandersville, GA 31082. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349 (404) 996-6266. Transporting *clay, concrete, glass or stone products*, between points in GA, on the one hand, and, on the other, points in AL, CT, DE, FL, IL, IN, KY, LA, MA, MD, ME, MI, MN, MS, MO, NH, NJ, NY, NE, OH, PA, RI, SC, TN, TX, VT, VA, WV, and WI.

MC 134771 (Sub-5), filed April 20, 1981. Applicant: AUSTIN TUPLER TRUCKING, INC., 6570 S.W. 47th St., Fort Lauderdale, FL 33014. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St., Miami, FL 33166 (305) 592-0036. Transporting *such commodities* as are ordinarily transported in dump vehicles, between points in AL, FL and GA.

MC 138861 (Sub-26), filed April 21, 1981. Applicant: C-LINE, INC., 303 Jefferson Blvd., Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M St., N.W., Suite 501, Washington, DC 20036 (201) 296-2900. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Bunge Edible Oil Corporation, of Kankakee, IL.

MC 139290 (Sub-1), filed April 17, 1981. Applicant: EJB HAULING, INC., 1012 Benedum-Trees Bldg., Pittsburgh, PA 15222. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219 (412) 281-9494. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Allegheny Sand, Inc., Bognar and Company, Inc., Bognar Minerals, Inc., Carb-Rite Company, E. J. Bognar, Incorporated, EJB Trading Company, Inc., Interstate Minerals Corporation, Navarre Minerals Co., Union Metals and Minerals, Inc., Union Mining Company of Allegheny County, Inc., and Vermiculite Industrial Corporation, all of Pittsburgh, PA.

MC 141951 (Sub-3), filed April 23, 1981. Applicant: MARY DICK AND HOLLIS A. DICK, a partnership, d.b.a. H.O. DICK TRANSFER CO., Box 307, Bethany, IL 61914. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701 (217) 544-5468. Transporting *food and related products*, between points in Milwaukee County, WI, on the one hand, and, on the other, points in IL.

MC 141460 (Sub-5), filed April 20, 1981. Applicant: THE GRAY LINE TOURS COMPANY, a corporation, 1207 West Third St., Los Angeles, CA 90017. Representative: Warren N. Grossman, Suite 1800, 707 Wilshire Blvd., Los Angeles, CA 90017 (713) 647-8471. Transporting *passengers and their baggage*, in charter operations, beginning and ending at points in Los Angeles, Orange, San Diego, and Riverside Counties, CA, and extending to points in the U.S.

MC 143061 (Sub-13), filed April 24, 1981. Applicant: ELECTRIC TRANSPORT, INC., P.O. Box 528, Eden, NC 27288. Representative: Archie W. Andrews (same address as applicant) (919) 623-9106. Transporting such commodities as are dealt in by a manufacturer of (a) *electric products*, and (b) *automotive products*, between points in the U.S., under continuing contract(s) with Arvin Industries, Inc., of Columbus, IN.

MC 146531 (Sub-3), filed April 23, 1981. Applicant: LARRY WILSON, Route #2, Eudora, KS 66025. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601 (913) 234-0565. Transporting *chemicals and related products*, between points in NE, IA, MO, OK, TX, CO, KS, and NM.

MC 149041 (Sub-2), filed April 20, 1981. Applicant: TANK TRANSPORT, INC., P.O. Box 315, Lannon, WI 53046. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705 (608) 238-3119. Transporting *petroleum, natural gas and their products*, and chemicals and related products, between Chicago, IL, on the one hand, and, on the other, points in IN, IA, KY, MI, MN, MO, OH, and WI. Condition: To the extent that the certificate in this proceeding authorizes the transportation of liquified petroleum gas, it will expire 5 years from the date of issuance.

MC 151481, filed April 20, 1981. Applicant: GOBEL FREIGHT LINES, INC., 138 6th Avenue South, Onalaska, WI 54650. Representative: Edward H. Instenes, 128½ East Third Street, P.O. Box 676, Winona, MN 55987, 1-507-454-3914. Transporting *such articles as are dealt in by wholesale and retail grocery stores*, between Chicago, IL, on the one hand, and, on the other, points in LaCrosse County, WI.

MC 151531, filed April 20, 1981. Applicant: NATURAL TRUCK LEASING, INC., 13 South Orchard St., Spring Valley, NY 10977. Representative: Edward L. Nehez, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting *textile mill products*, between points in the U.S., under continuing contract(s) with New-Stan Dyeing & Finishing Co., Inc., of Newburgh, NY.

MC 153651, filed April 23, 1981. Applicant: FLY BY NITE FAST FREIGHT COMPANY, INC., 9808 61st Ave. East, Puyallup, WA 98371. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055 (206) 235-1111. Transporting *lumber and wood products*, between points in the U.S., under continuing contract(s) with Pacific Forest Products Ltd., of Victoria, B.C. Canada.

MC 154600, filed April 20, 1981. Applicant: TOMMY L. FINDLEY, P.O. Box 51, Morrilton, AR 72110. Representative: James M. Duckett, 411 Pyramid Life Bldg., Little Rock, AR 72201 (501) 375-3022. Transporting *lumber and wood products*, between points in the Pulaski, Chicot, and Ashley Counties, AR, on the one hand, and, on the other, points in OR, WY, WA, ID, and MT.

MC 154740, filed April 23, 1981. Applicant: LAWRENCE R. JOHNSTON d.b.a. ODESSA TRANSPORTATION, 4525 S. Halsted, Chicago, IL 60609. Representative: Robert E. Knoppe, 79 W. Monroe St., Suite 500, Chicago, IL 60603 (312) 372-5541. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with East Balt Commissary, Inc., of Chicago, IL.

Volume No. OPY-2-061

Decided April 29, 1981.

By The Commission, Review Board No. 1, Members Parker, Chandler and Taylor.

MC 6143 (Sub-4), filed April 20, 1981. Applicant: DUNBAR TRANSPORTATION SERVICES, INC., 3970 Delp St., Memphis, TN 38118. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014 (301) 986-1410. Transporting *general commodities* (except classes A and B explosives), between points in Shelby County, TN, on the one hand, and, on the other, points in the U.S.

MC 69402 (Sub-4), filed April 20, 1981. Applicant: BEE LINE TRUCKING CO., INC., 3300 Chouteau Ave., St. Louis, MO 63103. Representative: T. M. Tahan, 2001 South Seventh St., St. Louis, MO 63104 (314) 772–6666. Transportating *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Monsanto Company, of St. Louis, MO.

MC 125433 (Sub-473), filed April 21, 1981. Applicant: F–B TRUCK LINE COMPANY, 1945 So. Redwood Rd., Salt Lake City, UT 84104. Representative: Roger E. Crum (same address as applicant) (801) 973–4242. Transportating *such commodities* as are dealt in or used by manufacturers and distributors of dental, hospital, and surgical supplies, between points in the U.S.

MC 125433 (Sub-474), filed April 21, 1981. Applicant: F–B TRUCK LINE COMPANY, 1945 So. Redwood Rd., Salt Lake City, UT 84104. Representative: Roger E. Crum (same address as applicant) (801) 973–4242. Transportating *such commodities* as are dealt in or used by manufacturers and distributors of water heaters and warm air furnaces, between points in the U.S.

MC 127172 (Sub-7), filed April 22, 1981. Applicant: MARC BAGGAGE LINES, INC., 9033 Hollyberry Ave., Des Plaines, IL 60016. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237 (404) 477–1525. Transportating *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Westinghouse Electric Corporation, of Pittsburgh, PA.

MC 145773 (Sub-11F), filed April 21, 1981. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *electrical machinery*, between points in the U.S., under continuing contract(s) with Melchior/Armstrong/Dessau/Inc. of Ridgefield, NJ.

MC 146293 (Sub-83F), filed April 20, 1981. Applicant: REGAL TRUCKING CO., INC. P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, P.O. Box 829, Lawrenceville, GA 30246 (404) 963–0291. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Royal Freight, Inc., of Atlanta, GA.

MC 151283 (Sub-2), filed April 17, 1981. Applicant: MOBY DICK, INC., 815 Max Ave., P.O. Box 20276, Lansing, MI 48901. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing MI 48933 (517) 489–5724. Transporting *general commodities* (except classes A and B explosives), between the facilities of Dow Chemical U.S.A., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 151813 (Sub-3), filed April 20, 1981. Applicant: CONERTY-HENIFF TRANSPORT, INC., 4220 West 122nd St., Alsip, IL 60658. Representative: Abraham A. Diamond, 29 South La Salle St., Chicago, IL 60603 (312) 236–0548. Transporting *petroleum, natural gas and their products, chemicals and allied products, and rubber and plastic products*, between points in IL, IN, IA, KY, MI, MN, MO, OH, and WI. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited to a period expiring 5 years from its date of issuance.

MC 151822 (Sub-2), filed April 20, 1981. Applicant: FREIGHT DIRECT, INC., 554 University Ave., SW, P.O. Box 10707, Atlanta, GA 30310. Representative: Robert C. Boozer, 1400 Candler Bldg., 127 Peachtree St., NE, Atlanta, GA 30043 (404) 658–8010. Transporting *general commodities* (except classes A and B explosives), between Atlanta, GA, on the one hand, and, on the other, points in FL, AL, MS, LA, TX, AR, TN, SC, NC, VA, WV, KY, OH, IN, IL, MO, MI, PA, DE, MD, NJ, NY, CT, RI, MA, and DC.

MC 153112, filed April 9, 1981. Applicant: KENNETH L. HORTON, 30 Peach Valley Dr., Spartanburg, SC 29303. Representative: P. Bradley Morrah, Jr., 300 East Coffee St., Greenville, SC 29601. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Edgecomb Metals Company, of Greenville, SC.

MC 154383F, filed April 20, 1981. Applicant: ROBERT WODILL, d.b.a. WODILL TRUCKING, Route 1, Fall River, WI 53932. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719 (608) 273–1003. Transporting *such commodities as are dealt in by the manufacturers and distributors of feed and farm supplies*, between points in the U.S., under continuing contract(s) with Vita Plus Corporation, of Madison, WI.

MC 155413F, filed April 20, 1981. Applicant: PEEBLES TRUCK SERVICE, INC., Box 243, Medora, IL 62063. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701 (217) 544–5468. Transporting *metal products*, between points in IL, on the one hand, and, on the other, points in AL, AR, CO, GA, IA, IN, KY, KS, LA, MO, MI, MS, OH, OK, PA, TN, TX, and WI.

MC 155422, filed April 17, 1981. Applicant: MENINI CARTAGE, INC., 6515 North Cicero Ave., Lincolnwood, IL 60646. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603 (312) 236–9375. Transporting *waste or scrap materials not identified by industry producing*, between points in AL, AR, CO, GA, IA, IL, IN, KS, KY, MI, MN, MO, NC, ND, NE, NY, OH, OK, PA, SC, TN, TX, VA, WI, and WV.

MC 155433F, filed April 20, 1981. Applicant: CANDELORA COAL, INC., 100 E. Independence St., Shamokin, PA 17872. Representative: Frank E. Garrigan (same address as applicant) (717)648–6868. Transporting *anthracite products and by products* between points in Northumberland County, PA, on the one hand, and, on the other, points in DE.

Volume No. OPY–3–057

Decided April 29, 1981.

The Commission Review Board No. 2, Members Carleton, Fortier and Williams. (Williams not participating).

MC 52945 (Sub-3), filed April 22, 1981. Applicant: H. P. STARSIAK, INC., 18 Hills St., Manchester, CT 06040. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181 (617) 235–5571. Transporting *building materials*, between points in CT, ME, MA, NH, NJ, NY, RI, and VT.

MC 61445 (Sub-24), filed April 21, 1981. Applicant: CONTRACTORS TRANSPORT CORP., 5800 Farrington Ave., Alexandria, VA 22304. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014 (301) 654–2240. Transporting (1) *metal products*, (2) *machinery*, and (3) *commodities which because of size and weight require the use of special handling or equipment*, between those points in the U.S. in and east of TX, OK, MO, IA, and MN.

MC 106194 (Sub-44), filed April 23, 1981. Applicant: HORN TRANSPORTATION, INC., 2622 McCormick Ave., P.O. Box 1172, Pueblo, CO 81001. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105 (816) 221–1464. Transporting *building materials*, between points in Jackson, Platte, and Clay Counties, MO, and Wyandotte, Johnson, and Leavenworth Counties, KS, on the one hand, and, on the other, those points in the U.S. in and west of MN, IA, IL, MO, AR, and LA.

MC 106194 (Sub-45), filed April 23, 1981. Applicant: HORN

TRANSPORTATION, INC., 2622 McCormick Ave., P.O. Box 1172, Pueblo, CO 81001. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105 (816) 221-1464. Transporting (1) *machinery*, and (2) *metal products* between those points in the U.S. in and west of WI, IL, MO, AR, and LA.

MC 110325 (Sub-175), filed April 20, 1981. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105 (816) 221-1464. Over regular routes, transporting *general commodities* (except classes A and B explosives), (1) Between Charlotte and Wilmington, NC, over U.S. Hwy 74, (2) Between Wilmington and Roanoke Rapids, NC, from Wilmington over U.S. Hwy 117 to junction U.S. Hwy 301, then over U.S. Hwy 301 to junction U.S. Hwy 158, and then over U.S. Hwy 158 to Roanoke Rapids, and return over the same route, (3) Between New Bern, NC, and Johnson City, TN, from New Bern over U.S. Hwy 70 to junction U.S. Hwy 64, then over U.S. Hwy 64 to junction U.S. Hwy 321, and then over U.S. Hwy 321 to Johnson City, and return over the same route, (4) Between the junction of Interstate Hwys 20 and 95, near Florence, SC, and Emporia, VA, from junction Interstate Hwys 20 and 95 over Interstate Hwy 95 to junction Interstate Hwys 20 and 95 over Interstate Hwy 95 to junction B.R. Interstate Hwy 95, then over B.R. Interstate Hwy 95 to junction Interstate Hwy 95, and then over Interstate Hwy 95 to Emporia, and return over the same route, (5) Between Washington and Raleigh, NC, from Washington over U.S. Hwy 264 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Raleigh, and return over the same route, (6) Between Florence, SC, and Martinsville, VA, from Florence over U.S. Hwy 52 to junction U.S. Hwy 1, then over U.S. Hwy 1 to junction U.S. Hwy 220, then over U.S. Hwy 220 to junction U.S. Hwy 58, and then over U.S. Hwy 58 to Martinsville, and return over the same route, (7) Between Society Hill and Fayetteville, NC, over U.S. Hwy 401, (8) Between Norfolk, VA, and Atlanta, GA, from Norfolk over U.S. Hwy 13 to junction U.S. Hwy 17, then over U.S. Hwy 17 to junction U.S. Hwy 76, then over U.S. Hwy 76 to junction Interstate Hwy 20, and then over Interstate Hwy 20 to Atlanta, and return over the same route, (9) Between Elizabeth City, NC, and Bristol, TN, from Elizabeth City over U.S. Hwy 158 to junction U.S. Hwy 421, then over U.S. Hwy 421 to Bristol, and return over the same route, serving all intermediate points in routes (1) through (9) above, and all other points in NC as off-route points.

MC 111785 (Sub-64), filed April 21, 1981. Applicant: BURNS MOTOR FREIGHT, INC., P.O. Box 149, Marlinton, WV 24954. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101 (703) 893-4924. Transporting *lumber and wood products, building materials*, and *metal products*, between points in DE, KY, MD, NJ, NY, NC, OH, PA, SC, TN, VA, WV, and DC, 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 140294 (Sub-28), filed April 20, 1981. Applicant: GENERAL FREIGHTS, INC., P.O. Box 1946, Hagerstown, MD 21740. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740 (301) 797-6060. Transporting *general commodities*, serving points in Adams, Fulton and York Counties, PA, as off-route points in connection with carrier's otherwise authorized regular route operations between Hagerstown and Baltimore, MD.

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 141865 (Sub-11), filed April 21, 1981. Applicant: ACTION DELIVERY SERVICE, INC., 2401 West Marshall Drive, Arlington, TX 75051. Representative: A. William Brackett, 623 So. Henderson, 2nd Floor, Fort Worth, TX 76104 (817) 332-4415 Transporting *such commodities* as are dealt in or used by home products distributors, between the facilities of Amway Corporation, at Des Moines, IA, on the one hand, and, on the ohter, points in the U.S.

MC 144624 (Sub-3), filed April 21, 1981. Applicant: AMERICAN STREVELL TRANSPORT, INC., P.O. Box 26828, 2205 West 15th South, Salt Lake City, UT 84125. Representative: Eugene D. Anderson, 910 Seventeenth St., NW, Suite 428, Washington, DC 20006 (202) 296-2550. 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, and Anderson Clayton Foods, of Dallas, TX.

MC 146865 (Sub-4), filed April 21, 1981. Applicant: M. T. SERVICES, INC., d.b.a. BRENNAN EXPRESS, P.O. Box 18402, Baltimore, MD 21237. Representative: Raymond P. Keigher, 401 E. Jefferson Street, Suite 102, Rockville, MD 20850 (301) 424-2420. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Barre-National, Inc., of Baltimore, MD.

MC 148314 (Sub-10), filed April 22, 1981. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 South LaSalle St., Chicago, IL 60603 (312) 236-9375. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with W. W. Grainger, Inc., of Chicago, IL.

MC 149415, filed April 13, 1981. Applicant: WARCO TRANSPORTATION, INC., RR #2, Cassville, WI 53806. Representative: Carl E. Munson, 469 Fischer Bldg., P.O. Box 796, Dubuque, IA 52001 (319) 557-1320. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Crawford and Grant Counties, WI, and extending to points in IL, IA, and MN.

MC 155384, filed April 17, 1981. Applicant: KIMBERLY-CLARK INTEGRATED SERVICES CORPORATION, 1400 Holcomb Bridge Rd., Roswell, GA 30076. Representative: Bradford L. Bates, 1730 Pennsylvania Ave., N.W., Washington, DC 20006 (202) 624-9090. Transporting *general commodities* (except classes A and B explosives), between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC.

MC 121654 (Sub-43), filed March 17, 1981, previously noticed in the **Federal Register** on April 6, 1981. Applicant: COASTAL TRANSPORT & TRADING CO., a corporation, P.O. Box 7438, Savannah, GA 31408. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326 (404) 262-7855. Transporting (1) *building materials*, and (2) *construction materials*, between the facilities of CertainTeed Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

Note.—This republication corrects the commodity description.

MC 123744 (Sub-95), filed March 27, 1981, previously noticed in the **Federal Register** on April 17, 1981. Applicant: BUTLER TRUCKING COMPANY, a corporation, P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., 110 N. 2nd St., P.O. Box 1320, Clearfield, PA 16830 (814) 765-

9611. Transporting *general commodities* (except classes A and B explosives), between points in PA, NY, OH, NJ, DE, MD, VA, and WV, on the one hand, and, on the other, points in the U.S.

Note.—Applicant relies on traffic studies rather than shipper support.

Note.—This republication corrects the territory description to show DE instead of ND.

MC 145044 (Sub-8), filed February 9, 1981, previously noticed in the **Federal Register** on March 13, 1981. Applicant: FOREDECK TRANSPORTATION CO., INC., P.O. Box 142, Oak Ridge, NJ 07438. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934 (201) 435–7140. Transporting *general commodities*, between the facilities of Esselte Pendaflex Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

Note.—This republication corrects the commodity description.

Volume No. OPY–3–058

Decided May 1, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fortier and Williams/ Williams not participating.

MC 19835, filed April 24, 1981. Applicant: CLIFTON BUS CO., INC., 1222 Putnam Ave., Brooklyn, NY 11221. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022 (212) 838–0600. Transporting *passengers and their baggage*, in round trip, charter operations, beginning and ending at New York, NY, and extending to points in the U.S.

MC 107295 (Sub-1036), filed April 23, 1981. Applicant: PRE–FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant) (309) 928–2141. Transporting *lumber and wood products*, between points in Beltrami County, MN, on the one hand, and, on the other, points in the U.S.

MC 121805 (Sub-16), filed April 23, 1981. Applicant: ARKANSAS EXPRESS, INC., 1200 Arkansas Avenue, North Little Rock, AR 72114. Representative: James M. Duckett, 221 W. 2nd Street, Suite 411, Little Rock, AR 72201 (501) 375–3022. Transporting *general commodities* (except classes A and B explosives), between Crossett, AR, on the one hand, and, on the other, points in TX, OK, KS, NE, MO, KY, TN, LA, and MS.

Note.—Applicant intends to tack this authority with its existing authority and interline.

MC 125254 (Sub-79), filed April 23, 1981. Applicant: MORGAN TRUCKING CO., 1201 E. 5th Street, P.O. Box 714, Muscatine, IA 52761. Representative: Ronald R. Adams, 600 Hubbell Building, Des Moines, IA 50309 (515) 244–2329. Transporting *such commodities* as are dealt in by food business houses, between the facilities of Star-Kist Foods, Inc., and its subsidiaries, in the U.S., on the one hand, and, on the other, points in the U.S.

MC 125535 (Sub-27), filed April 23, 1981. Applicant: NATIONAL SERVICE LINES, INC. OF NEW JERSEY, P.O. Box 1746, Maryland Heights, MO 63043. Representative: Donald S. Helm (same address as applicant) (314) 569–1161. Transporting *bonding cement and fire clay*, between points in the U.S., under continuing contract(s) with Universal Refractories, Inc., of Chesterfield, MO.

MC 138904 (Sub-3), filed February 9, 1981, previously noticed in the **Federal Register** on March 13, 1981. Applicant: CARGO AND TRANSPORTATION SERVICES, INC., 2622 McCormick Ave., Pueblo, CO 81001. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105 (816) 221–1464. Transporting *general commodities* (except classes A and B explosives), between points in Scott County, KS, on the one hand, and, on the other, points in Barton, Sedgwick, Atchison, Leavenworth, and Finney Counties, KS, and St. Joseph and Kansas City, MO.

Note.—Applicant intends to tack and interline this authority with its existing authority.

Note.—This republication corrects the territorial description to read points in "Sedgwick County, KS," instead of points in "Wichita County, KS."

MC 146964 (Sub-14), filed April 23, 1981. Applicant: RELIABLE TRUCK LINES, INC., 1451 Spahn Ave., York, PA 17403. Representative: Michael Valencik (same address as applicant) (717) 845–7030. Transporting (1) *printing materials*, (2) *chemicals*, and (3) *plastic products*, between the facilities of Sloan Paper Company, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 150954 (Sub-25), filed April 23, 1981. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 215, San Antonio, TX 78217 (512) 826–6496. Transporting *food and related products*, and *toilet preparations*, between ports of entry on the international boundary line between the U.S. and Canada, in ID, ME, MI, MT, NY, VT, and WA, and points in Cameron County, TX, Maricopa County, AZ, Los Angeles and San Francisco Counties, CA, Fulton County, GA, Cook County, IL, Orleans Parish, LA, Suffolk County, MA, Multnomah County, OR, Allegheny County, PA and Salt Lake County, UT.

MC 150954 (Sub-26), filed April 27, 1981. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217 (512) 826–6496. Transporting *food and related products*, and *toilet preparations*, between points in Hidalgo County, TX, Maricopa County, AZ, Los Angeles County, CA, Brevard and Broward Counties, FL, Hennipin County, MN and Bergen County, NJ.

MC 155185, filed April 27, 1981. Applicant: GARY MEISTER d.b.a. M & M WRECKER SERVICE, 2311 Fairlawn Drive, Carthage, MO 64836. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804 (417) 883–7311. Transporting *disabled and replacement vehicles and trailers*, between points in the U.S.

MC 155495, filed April 24, 1981. Applicant: JOY BUS SERVICE, INC., 5906 Walker Mill Road, District Heights, MD 20037. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022 (212) 838–0600. Transporting *passengers and their baggage*, in charter operations, helping and ending at Alexandria, VA, points in Prince Georges and Montgomery Counties, MD, Arlington County, VA, and DC, and extending to points in the U.S.

Volume No. OPY4–115

Decided: May 1, 1981.

By the Commission Review Board No. 2, Members Carleton, Fortier, and Williams (Williams not participating).

MC 107727 (Sub-34), filed April 27, 1981. Applicant: ALAMO EXPRESS, INC., 6013 Rittiman Plaza, San Antonio, TX 78218. Representative: Stephen W. Bricker (same address as applicant) (512) 824–9481. Transporting *general commodities* (except Classes A and B explosives), between points in TX, on the one hand, and, on the other points in the U.S. Conditions: (1) The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 4, Room 5331; and (2) Issuance of a certificate in this proceeding is condition upon a prior grant of the conversion application filed in MC–107727 Sub 31F.

MC 119837 (Sub-23), filed April 24, 1981. Applicant: OZARK MOTOR LINES, INC., 27 West Illinois Ave., Memphis, TN 38106. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137, (901) 767-5600. Transporting *general commodities*, (except Classes A and B explosives), between points in the U.S., under continuing contracts(s) with Crosswinds Wood Energy Corporation, of West Plains, MO.

MC 134547 (Sub-10), filed April 24, 1981. Applicant: BILBO TRANSPORTS, INC., 2722 Singleton Blvd., Dallas, TX 75212. Representative: Austin L. Hatchell, P.O. Box 2156, Austin, TX 78768, (512) 476-6083. Transporting *building materials*, between points in the U.S., under continuing contracts(s) with Flintkote Building Products Company, of Dallas, TX; Elk Corp., of Texas, Inc., of Ennis, TX; American Paneling, of Nederland, TX; Moses & Cline, Inc., of Addison, TX, and McCoy Corporation, of San Marcos, TX.

MC 145797 (Sub-13), filed April 24, 1981. Applicant: NANCY TRANSPORTATION, INC., 429 Stablestone Drive, Chesterfield, MO 63017. Representative: R. Thomas Grasso, 111 Hilltown Village Center; Suite 212, Chesterfield, MO 63017 (314) 532-7035. Transporting *food and related products*, between points in Fresno County, CA, Morgan County, IL, Grayson County, TX, Gibson County, TN, and Dodge County, WI, on the one hand, and, on the other, points in the U.S.

MC 145807 (Sub-2), filed April 24, 1981. Applicant: DERBY TRANSPORT, INC., 609 First Ave. N., Box 695, Weyburn, Saskatchewan Canada S4H 1P1. Representative: James B. Hovland, 525 Lumber Exchange Bldg., 10 S. 5th St., Minneapolis, MN 55402 (612) 340-0808. Transporting *farm products*, between ports of entry on the United States-Canada International boundary line at points in MT, ND, and MN, on the one hand, and, on the other, points in WI, NE, ND, SD, IA, MN, KS, MO, IL, WY, and MT.

Volume No OPY-4-116

Decided: May 1, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fortier and Williams.

MC 148657 (Sub-1), filed March 24, 1981, and previously noticed in the **Federal Register** issue of April 14, 1981, and republished this issue. Applicant: RAYMOND & HIGGINS TRANSPORTATION CO., INC., 78/80 Judith St., Providence, RI 02909. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th., N.W., Washington, DC 20004 (202) 737-1030. Transporting *petroleum and petroleum products*, (1) between points in MA, on the one hand, and, on the other, points in CT and RI, and (2) between points in Providence County, RI, on the one hand, and, on the other, points in CT, NH, and NY. Condition: The person or persons who appear to be engaged in common control or another regulated carrier must either file an application under 49 U.S.C. 11343 (A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 4, Room 5331.

Note.—The purpose of this republication is to reflect the above condition which was erroneously omitted.

Volume No. OPY 5-54

Decided: April 30, 1981.

By the Commission, Review Board No. 5, Members Krock, Joyce, and Dowell.

MC 22139 (Sub-17), filed April 20, 1981. Applicant: R. F. ZAPORA MOTOR TRANS., 22 Auburn Rd., Manchester, NH 03104. Representative: Kenneth M. Piken, 95-25 Queens Blvd., Rego Park, NY 11374, 212-275-1000. Transporting *petroleum, natural gas and their products*, between points in ME, NH, VT, MA, RI, CT, NY, NJ, and PA.

MC 85718 (Sub-19), filed April 16, 1981. Applicant: SEWARD MOTOR FREIGHT, INC., 1041 Elm St., Seward, NE 68434. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501 (402) 475-6761. Transporting (1) *printed matter*, and (2) *pulp, paper, and related products*, between the facilities of Nebraska Book Company, Inc., located in the U.S., on the one hand, and, on the other, points in the U.S.

MC 105269 (Sub-98), filed April 14, 1981. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, 616-459-6121. Transporting *general commodities* (except classes A and B explosives), between the facilities of SCM Corporation in the U.S., on the one hand, and, on the other, points in the U.S.

MC 109449 (Sub-56), filed April 17, 1981. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th St., Winona, MN 55987. Representative: Francis Cisewski (same address as applicant) (507) 452-1032. Transporting *food and related products*, between points in Muscatine and Johnson Counties, IA, on the one hand, and, on the other, points in MN, WI, and ND.

MC 117119 (Sub-840), filed April 23, 1981. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant), 501-248-7261. Transporting *chemicals and related products*, between points in the U.S.

MC 121259 (Sub-3), filed April 20, 1981. Applicant: JAY-BEE CARTAGE CO., INC., 1514 South Canal St., Chicago, IL 60607. Representative: Themis N. Anastos, 120 West Madison St., Chicago, IL 60602, 312-782-8668. Transporting (1) *pulp, paper and related products*, (2) *printed matter*, (3) *chemicals*, and (4) *rubber and plastic products*, between those points in the U.S. in and east of MN, IA, KS, OK, and TX, (5) *machinery* and (6) *metal products*, between points in IL, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, KS, OK, and TX, and (7) *leather*, between points in IL, on the one hand, and, on the other, points in GA and TN.

MC 133689 (Sub-369), filed April 22, 1981. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, 612-780-1310. Transporting *building materials*, between points in Fredericksburg County, VA on the one hand, and, on the other, points in the U.S.

MC 135658 (Sub-10), filed April 22, 1981. Applicant: ROCK RIVER CARTAGE, INC., R.R. #2, Rock Falls, IL 61071. Representative: Michael W. O'Hare, 300 Reisch Bldg., Springfield, IL 62701, 217-544-5468. Transporting *metal products*, between points in the U.S. under continuing contract(s) with Lawrence Brothers, Inc. of Sterling, IL.

MC 140159 (Sub-17), filed April 20, 1981. Applicant: C.L. FEATHER, INC., P.O. Box 1190, Altoona, PA 16601. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, 412-471-3300. Transporting *coal and coal products*, between points in the U.S. under contract(s) with Resource Engineering, Inc., of Waltham, MA.

MC 145129 (Sub-6), filed April 20, 1981. Applicant: WHITAKER TRANSPORTATION COMPANY, INC., 2909 South Hickory St., Chattanooga, TN 37407. Representative: M. C. Ellis, c/o Chattanooga Freight Bureau, Inc., 1001 Market St., Chattanooga, TN 37402, 615-756-3620. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.,

under continuing contract(s) with United Freight, Inc., of Morrow, GA.

MC 147409 (Sub-4), filed April 17, 1981. Applicant: THE SPRINGFIELD TRANSPORTATION CO., 3200 Columbiana Rd., New Springfield, OH 44443. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 464-4103. Transporting *general commodities* (except classes A and B explosives), between points in Hartford and New London Counties, CT, Duval County, FL, Atlanta, GA, Hendricks County and Indianapolis, IN, Louisville, KY, Guilford County, NC, Richardson County, NE, Livingston County and Rochester, NY, Columbiana, Lake, Mahoning, and Trumbull Counties and Akron, OH, Allegheny County, PA, and Wythe County, VA, on the one hand, and, on the other, points in the U.S.

MC 150908 filed April 13, 1981. Applicant: SAM E. WINN, 716 Glendale, Jefferson City, MO 65101. Representative: Sam E. Winn (same address as applicant), 314-635-3865. Transporting *transportation equipment* between points in the U.S., under continuing contract(s) with General Motors Acceptance Corporation, of Jefferson City, MO.

MC 153148, filed April 23, 1981. Applicant: MERLE HOUGH, P.O. Box 2, Detroit Lakes, MN 56501. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126, 701-235-4487. Transporting (1) *chemicals and related products*, between points in MN, on the one hand, and, on the other, points in ND, (2) *building materials*, between points in Becker, Otter, Tail and Clay Counties, MN, on the one hand, and, on the other, points in the U.S., (3) *machinery, metal products, rubber and plastic products, pulp, paper and related products*, between points in Becker County, MN, on the one hand, and, on the other, points in the U.S., (4) *petroleum, natural gas, and their products*, between Becker County, MN, on the one hand, and, on the other, points in Tulsa and Oklahoma Counties, OK and Madison County, IL.

MC 155199, filed April 8, 1981. Applicant: MAGYAR TRANSPORT CORPORATION, P.O. Box 554, Herndon, VA 22070. Representative: Laszlo S. Eszenyi, 12509 Glenbrooke Woods Drive, Herndon, VA 22070, 703-620-3977. Transporting (1) *transportation equipment* between points in the U.S., under continuing contract(s) with British Aerospace, Inc., of Herndon, VA; (2) *furniture and fixtures* between points in the U.S., under continuing contract(s) with Burger's Cabinet Shop, Inc., of Herndon, VA; and (3) *pulp, paper and related products*, and (4) *chemicals and related products*, between points in the U.S., under continuing contract(s) with Louis Creative Hairdressers, Inc., of Arlington, VA.

MC 155209, filed April 23, 1981. Applicant: DOT TRANSPORTATION, INC., 1825 Midland Blvd., Ft. Smith, AR 72904. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 75245, 214-358-3341. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with H. T. Tucker Industries of Ft. Smith, AR.

MC 155299, filed April 23, 1981. Applicant: L & K CARTAGE COMPANY, INC., 22431 Barton, St. Clair Shores, MI 48081. Representative: Frank J. Kerwin, 24055 Jefferson, Suite 200, P.O. Box 319, St. Clair Shores, MI 48080, 313-777-0400. Transporting *such commodities* as are dealt in by retail chain and grocery stores, between points in MI, on the one hand, and, on the other, points in OH, IN and IL.

MC 155378, filed April 17, 1981. Applicant: MOVING SYSTEMS, INC., 21 Pleasant St., Newburyport, MA 01950. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001 (202) 628-9243. To engage in operations as a *broker*, arranging transportation of (1) *household goods* and (2) *trailers*, between points in the U.S.

MC 155459, filed April 22, 1981. Applicant: AMERICAN INTERSTATE LEASING, INC., 1111 West 39th St., Chicago, IL 60609. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601, 312-332-5106. Transporting *such merchandise* as is used by, or dealt in, sold or distributed by retail, discount, catalog and department stores, between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-13773 Filed 5-6-81; 8:45 am]
BILLING CODE 7035-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 81-19]

Report, Recommendations, Responses; Availability

• *Aircraft Accident Report—Eagle Commuter Airlines, Inc., Piper PA-31-350, Navajo Chieftain, N59932, William P. Hobby Airport, Houston, Texas, March 21, 1980 (NTSB-AAR-81-4).*—As a result of its investigation of this accident and a similar accident at Tusayan, Ariz., July 21, 1980, the National Transportation Safety Board on March 12 issued recommendations A-81-24 and -25 concerning 14 CFR Part 135 operations. (See 46 FR 18823, Mar. 26, 1981.)

• *Aviation Safety Recommendations to the Federal Aviation Administration, April 16, 1981:*

Require single rotor helicopter manufacturers to analyze and define the critical slope angles of each model and include this information in the individual flight manuals. (Class II, Priority Action) (A-81-46)

Include detailed discussions on helicopter dynamic rollover characteristics and corrective actions to be taken in: (1) the Basic Helicopter Handbook, (2) written examinations, (3) helicopter flightcheck oral examinations, and (4) any other publication deemed appropriate for the dissemination of safety of flight information. (Class II) (A-81-47)

• *Railroad Safety Recommendation to the Southeastern Pennsylvania Transportation authority, February 26, 1981:*

Install approved rear marking devices on its commercial cars and discontinue the use of rear-facing headlights for that purpose. (Class II) (R-81-36)

• *Recent Responses from the Federal Aviation Administration to Safety Board Recommendations:*

A-72-56 (April 24).—Supplements response of July 18, 1979 (44 FR 45497, Aug. 2, 1979) and responds to Board inquiry of Aug. 27, 1980. FAA reports that air carrier operators have aggressively pursued installation of underwater locating devices on cockpit voice recorders.

A-77-16 (April 17).—Supplements response of Oct. 22, 1979 (44 FR 62973, Nov. 1, 1979) aand responds to Board inquiry of July 28, 1980. FAA continues nonconcurrence but is considering amending 14 CFR Part 139 to require extended safety areas for air carrier runways with proposed major airport construction.

A-78-78, -80 and -81 (April 17).—FAA reports establishing 137 Terminal Radar Service Areas, 26 more under consideration. Terminal Control Areas have been sited at San Diego and Honolulu; 36 more are under consideration. Board inquiry of Mar. 4, 1981, refers to FAA letters of Jan. 9, 1979 (44 FR 5215, Jan. 25, 1979) and July 1, 1980 (45 FR 51008, July 31, 1980).

A-79-53 and -54 (April 24).—Supplements response of Sept. 25, 1979 (44 FR 57243, Oct. 4, 1979) and responds to Board inquiry of Oct. 21, 1980. FAA says mandatory action to incorporate solid rod ends on Hiller UH-12 series helicopters or to assure periodic

lubrication of the bearings is not necessary, nor is establishment of a separate retirement life for the rod ends.

A-80-1 and -2 (April 17).—Responds to Board inquiry of Feb. 27, 1981, and letter of last June 4 commenting on initial response dated Apr. 10, 1980 (45 FR 27848, Apr. 24, 1980). Provides copies of Air Carrier Operations Bulletins 2-80-4, addressing Nord 262, Emergency Engine Shutdown Procedure, and 2-80-5, addressing Nord 262 Runup Autofeather Check.

A-80-13 and -14 (April 17).—Supplements response of May 13, 1980 (45 FR 34478, May 22, 1980) and responds to Board letters of last June 3 and Feb. 27, 1981, which noted that A-80-14 has been classified "closed." FAA's April 17 letter also responds to Board letter of Sept. 15, 1980, which commented on FAA's Aug. 27, 1980, response (45 FR 60053, Sept. 11, 1980) to related recommendation *A-78-4*. FAA has under study possible regulatory action on a secondary locking device on nose baggage doors of light twin engine aircraft and periodic inspection of forward baggage door locks.

A-80-24 and -25 (April 17).—Supplements responses of last June 25 (45 FR 46585, July 10, 1980) and Dec. 2 (45 FR 83355, Dec. 18, 1980), to which the Board replied on Aug. 12 and Jan. 19, respectively. While FAA agrees that adequate checkout of pilots in tailwheel airplanes is essential, amendment of 14 CFR Part 61 is not justified. Currency requirements for differently configured aircraft will be considered in FAA's Regulatory Review Program.

A-80-42 and -43 (April 24).—Supplements response of last Aug. 20 (45 FR 58736, Sept. 4, 1980) and responds to Board's comments of Jan. 8. Regulatory change for crew coordination, including adequate training procedures, is not required, but revisions to AC 135-3B, Air Taxi Operators and Commercial Operators, are proposed.

• *Other Recent Responses to Safety Board Recommendations:*

Interagency Air Cartographic Committee of the National Oceanic and Atmospheric Administration: A-81-34 (April 10).—New IACC Requirements Documentation No. 230 will be circulated and, after approval by IACC member agencies, new chart specifications may be prepared and circulatd. (Ref. 46 FR 21284, Apr. 9, 1981)

Federal Highway Administration: H-80-3 and -4 (April 17).—Responds to Board reply of Sept. 29 to response of last Aug. 25 (45 FR 60054, Sept. 11, 1980). Provides information and current bulletins regarding courses, films, and programs available for training of State highway maintenance and other personnel.

National Highway Traffic Safety Administration: H-81-1 (April 16).—NHTSA continues to examine automatic brake adjustment as a means of maintaining vehicle braking performance and will generate and analyze in-use fleet data before initiating rulemaking. (Ref. 46 FR 14231, Feb. 26, 1981)

Unitied States Coast Guard: M-78-18 and -27 (April 22).—Responds to Board reply of Nov. 6 to response of last Aug. 6 (45 FR 60055, Sept. 11, 1980). USCG continues study of loading variability on Great Lakes bulk vessels; continues stand on prohibiting navigation of Great Lakes vessels under certain wind and wave conditions.

M-79-103 through -105; Reiterated M-74-15 and M-77-33 (April 14).—USCG responds to Board's Nov. 26 reply to response of last Sept. 4 (45 FR 70358, Oct. 23, 1980). Lower Mississippi River safety study is to be completed May 31, 1981; USCG will continue operating Algiers Point traffic lights during high water stage pending evaluation of the study. A new foreign vessel boarding program checklist is forthcoming. Re M-77-33 and M-74-15, USCG continues nonconcurrence; master and pilot need to share pertinent information about the vessel and waterway, but further regulation is not now warranted.

Amtrak: R-80-25 (April 15).—Responds to the Board's March 18 reply to response of last Oct. 2 (45 FR 75030, Nov. 13, 1980). Amtrak has modified 22 locomotives to date and plans to modify 13 others with audible and visual alarms. AT&SF Railway Co. has observed modifications made.

Secretary, Department of Transportation: R-81-1 and -2 (April 22).—Finds no necessity to seek legislation to explicitly authorize regulation of safety of rail transit systems which receive Federal financial assistance; rail transit safety is a local responsibility. UMTA's safety program and activities will soon be evaluated for improvements. (Ref. 46 FR 17684, March 19, 1981)

Southeastern Pennsylvania Transportation Authority: R-81-36 (April 7).—Tested and approved a rear marking device to replace original rear marking devices on all its commuter rail equipment. Conrail, SEPTA's carrier, will be advised to discontinue use of rear headlight on dim when fleet modification is complete. (R-81-36 reported above)

Note.—Single copies of Board reports are available without charge as long as limited supplies last. Copies of recommendation letters, responses and related correspondence are also free of charge. All requests must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

May 1, 1981

[FR Doc. 81-13643 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactors Safeguards, Subcommittee on Advanced Reactors; Meeting Postponement

The ACRS Subcommittee on Advanced Reactors scheduled for May 14-15, 1981 has been postponed to June 22-23, 1981. Notice of this meeting was published on Wednesday, April 29, 1981 (46 FR 24046).

Dated: May 4, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-13812 Filed 5-6-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-70]

General Electric Co. (Vallecitos Nuclear Center—General Electric Test Reactor, Operating License No. TR-1); Notice of Hearing

May 1, 1981.

On October 24, 1977, the Nuclear Regulatory Commission issued an order directing the General Electric Company (Licensee), to place and maintain its General Electric Test Reactor (GETR), located at Pleasanton, California in a cold shutdown condition, and to show cause why the suspension of activities under Operating License No. TR-1 should not be continued. The order to show cause provided that within 20 days of date of the order Licensee might file a written answer to the order, and Licensee or any interested person might request a hearing.

Licensee filed a timely response requesting approval to resume operations immediately after completion of certain modifications proposed in the response, but did not request a hearing. Timely requests for a hearing were filed by Friends of the Earth and Congressman Ronald V. Dellums.

On February 13, 1978, the Commission issued a Memorandum and Order delegating its authority to rule on the request for a hearing and to conduct any hearings that might ensue to an Atomic Safety and Licensing Board. The order specifically delineated the issues that might be considered by the Board in the event that a hearing were to be held.

The first prehearing conference in this proceeding was held on March 16, 1978. In its Order Following Conference, dated March 28, 1978, the Licensing Board admitted Friends of the Earth and Congressman Ronald Dellums as parties in the proceeding, restated the issues to be determined, opened formal discovery, and directed that an evidentiary hearing be held at a future date, to begin in the vicinity of the GETR site. Subsequent to the filing of petitions by Congressman Dellums and Friends of the Earth, Congressman Phillip Burton and John L. Burton, and Ms. Barbara Shockley also filed petitions to intervene. They were admitted as intervenors, with the Congressman consolidated for all purposes with Congressman Dellums, and Ms. Shockley consolidated for all purposes with Friends of the Earth. By joint motion dated April 16, 1981, Friends of the Earth and Congressman Dellums ask to consolidate their interventions. The Board grants the request.

On January 5, 1981, a second prehearing conference was held. In its Memorandum and Order following that conference, the Board established an 11-step schedule culminating in the commencement of evidentiary hearings on May 27, 1981. All should now take notice that the evidentiary hearings are scheduled to begin at 9:30 a.m. on May 27, 1981 at Veterans Hall, 522 So. L Street, Livermore, California. Limited appearance statements will be heard during that first day to the extent that they can be accommodated, under limitations to be determined by the Board.

If necessary, the evidentiary hearings will continue at that location through May 29, 1981. Thereafter, if necessary, the hearings will be moved to the Holiday Inn at Van Ness and Pine Streets, San Francisco, California, and will commence at that location at 9:30 a.m. on June 1, 1981. Limited appearance statements will also be heard on that date to the extent that they can be accommodated, under limitations to be determined by the Board.

By order of the Board.

Dated at Bethesda, Maryland this 1st day of May 1981.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Administrative Judge.

[FR Doc. 81-13813 Filed 5-6-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR-40 issued to Omaha Public Power District (the licensee), which revised the license for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment modifies License No. DPR-40 to include a requirement to maintain a Safeguards Contingency Plan to be fully implemented, in accordance with 10 CFR 73.40(b), within 30 days of this approval by the Commission.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

The licensee's filing dated March 12, 1979, as revised by pages dated June 18, 1979, July 7, 1979, and October 9, 1980 is being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure only in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment No. 58 to License No. DPR-40, and (2) the Commission's related letter. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 28th day of April, 1981.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-13814 Filed 5-6-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR-54, issued to Sacramento Municipal Utility District, which revised Technical Specifications (TSs) for operation of the Rancho Seco Nuclear Generating Station (the facility) located in Sacramento County, California. The amendment is effective as of its date of issuance.

The amendment changes the operation limits for Cycle 5 operation. In addition, the Commission has approved the insertion of four axial blanket lead test assemblies into the Cycle 5 core.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's application dated March 13, 1981, as supplemented April 10 and 17, 1981, (2) Amendment No. 33 to License No. DPR-54, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

and at the Business and Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23rd day of April 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-13815 Filed 5-6-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-339]

Virginia Electric & Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. NPF-7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Unit No. 2 (the facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment consists of a one time 30 day extension to the 18 month surveillance frequency requirements specified in the Technical Specifications for the 125-volt direct current battery testing.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 22, 1981; (2) Amendment No. 7 to Facility Operating License No. NPF-7; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 29th day of April, 1981.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-13818 Filed 5-6-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric & Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 27 and No. 8 to Facility Operating License Nos. NPF-4 and NPF-7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Units No. 1 and No. 2 (the facility) located in Louisa County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to allow an increase in enrichment for new and spent fuel from 3.5 weight percent of U-235 to 3.7 weight percent of U-235.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 6, 1981 as supplemented March 26, 1981; (2) Amendment No. 27 and No. 8 to Facility Operating Licenses No. NPF-4 and NPF-7 and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 29th day of April, 1981.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 81-13817 Filed 5-6-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

April 4, 1981.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are

interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A descripton of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public;

The number of forms in the request for approval;

An indication of whether Section 3504(h) of Pub. L. 96–511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201.

New

• Forest Service
Application for Temporary Employment, Form FS–6100–23
Annually
Individuals or households
Application for temporary employment
Conservation and land management, 100,000 responses, 75,000 hours; $275,000 Federal cost, 1 form; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

This form is the basic application for temporary summer/seasonal employment with the Forest Service. Form FS–6100–23 has been designed as a rating tool to determine applicant's qualifications for various positions in the Forest Service and their grade levels.

Extensions (Burden Change)

• Rural Electrification Adminstration
Request for Mail List Data—REA Borrowers
REA 87
Annually
Businesses or other institutions
REA electric and telephone borrowers
SIC: 481 491
Small businesses or organizations
Area and regional development, 1,948 responses, 487 hours; $28,440 Federal cost, 1 form; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

This form is used by REA to obtain up-to-date mailing information on people with whom REA has outside contact on a receiving basis. The information is used to ensure that proper officials have signed the documents that are submitted to REA and that REA correspondence is properly directed.

Reinstatements

• Science and Education Administration of Food Intake of Men 1981–1982
Other-see SF83
Individuals or households
Male respond. Employed at Marriott Corp. Hdqtrs BE., MD.
Agricultural Research and Services, 400 responses, 400 hours; $217,704 Federal Cost, 2 forms; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

Data from this methodological study are needed to provide information on the types of errors that occur in reporting of foods ingested by individuals. The results will be used to improve procedures for future surveys.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

Extensions (No Change)

• Economic Development Administration
Employment Data of Recipient or Other Party Connected With EDA Assistance
ED–525
On occasion
Businesses or other institutions
Usually organizations with at least 50 Employees
SIC: Multiple
Small businesses or organizations
Area and regional development, 760 responses, 6,080 hours; $145,510 Federal cost, 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

Need-data collected is needed to evaluate personnel and employment procedures to see if employers connected with EDA-assisted projects are in compliance with civil rights laws and regulations. Use—if data collected shows an employer in noncompliance with civil rights regulations, conciliation will be attempted. If conciliation is not achieved, future stages of postapproval monitoring will be taken.

DEPARTMENT OF ENERGY

Agency Clearance Officer—Irene Montie—202–633–9464

Revisions

• Energy Information Administration
International Energy Agency Emergency Supply Report
EIA–142
Monthly
Businesses or other institutions
Importers of crude petro., natur. gas liq., feedstocks, etc.
SIC: 517
Energy information, policy, and regulation, 696 responses, 1,490 hours;

$1,675 Federal cost, 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

The form will be used to collect information on imports and stocks at sea of crude petroleum, natural gas liquids, feedstocks, and petroleum products for meeting reporting requirements to the International Energy Agency.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—Vivian A. Keado—202–343–6191

Reinstatements

- Office of the Solicitor and Office of the Secretary Youth Conservation Corps Work Accomplishment Reporting Form (State Grant Program)

YCC 5
Annually
State or local governments
Director of YCC State grant programs
SIC: 941, 944, 951
Other natural resources, 300 responses, 300 hours; $31,000 Federal cost, 1 form; not applicable under 3504(h)
Constance Buckley, 202–395–7340

State YCC Camp Directors report the value of work accomplished in their camps by resource category. Comparison of the value of work accomplished with funds expended results in a benefit/cost ratio for each camp. This information is primarily used for program justification but it is also used for evaluation.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Larry E. Miesse—202–633–4312

New

- Immigration and Naturalization Service

Application for Permission to Reapply for Admission into the United States After Deportation or Removal
I–212
Nonrecurring
Individuals or households
Applicants seeking readmission into the United States
Federal Law enforcement activities, 5,000 responses, 1,666 hours; $187,000 Federal cost, 1 form; not applicable under 3504(h)
Andy Uscher, 202–395–4814

Section 212(d)(3)(a) of the I&N Act provides that an alien applying for a nonimmigrant visa may at the discretion of the Attorney General be issued such a visa even though inadmissible because of previous deportation or removal from the United States. Information is used to determine eligibility.

- Legal Activities

Statement of Claim
FCSC 606
Nonrecurring
Individuals or households
American citizens whose property was confiscated in Vietnam
Conduct of foreign affairs, 1,000 responses, 1,000 hours; $2,500 Federal cost, 1 form; not applicable under 3504(h)
Andy Uscher, 202–395–4814

To provide a means of filing for claims of American citizens against the Vietnam Government. The claim form will provide the basis for determination of validity and amounts of awards to United States citizens.

Extensions (No Change)

- Immigration and Naturalization Service

Baggage and Personal Effects of Detained Alien
I–43
Nonrecurring
Individuals or households
Detained aliens
Federal law enforcement activities, 600,000 responses, 10,000 hours; $192,000 Federal cost, 1 form; not applicable under 3504(h)
Andy Uscher, 202–395–4814

Information is needed in order to protect the Government from claims that detained aliens were not given an opportunity to obtain their personal effects before deportation from the United States.

- Immigration and Naturalization Service

Application for Issuance or Extension of Permit to Reenter the United States
I–131
Nonrecurring
Individuals or households
Lawful permanent residence
Federal law enforcement activities, 84,000 responses, 42,000 hours; $750,000 Federal cost, 1 form; not applicable under 3504(h)
Andy Uscher, 202–395–4814

Section 223 of the I&N Act provides for the issuance of a permit to reenter the United States to an alien lawfully admitted to the United States who intends to depart temporarily from the United States. Data is used to determine eligibility for issuance of the permit.

- Immigration and Naturalization Service

Petition to Classify Preference Status of Alien on Basis of Profession or Occupation
I–140
Nonrecurring
Individuals or households/businesses or other institutions third or sixth preference petitioners
SIC: 919
Federal law enforcement activities, 26,000 responses, 26,000 hours; $950,000 Federal cost, 1 form; not applicable under 3504(h)
Andy Uscher, 202–395–4814

Sections 203(a) (3) and (6) of the I&N Act provide for persons who meet the provisions of those sections to be eligible for admission into the U.S. Data required to determine eligibility.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–6331

New

- Employment and Training Administration

Nonmonetary Determination Activities
ETA–207
Quarterly
State or local governments
State Employment Security Administration Offices
SIC: 944
Training and employment, 212 responses, 1,166 hours; $1,800 Federal cost, 1 form; not applicable under 3504(h)
Arnold Strasser, 202–395–6880

Measures workload and enables appraisal of adequacy and effectiveness of State and Federal nonmonetary determination procedures and study of relationship against unemployment.

Revisions

- Employment and Training Administration

CETA Grant Application and Reporting Requirements
ETA 2202, 5134, etc.
On occasion, quarterly, annually
State or local governments
State and local governments
SIC: 944
Training and employment, 2,276,318 responses, 1,711,584 hours; $102,000 Federal cost, 14 forms; not applicable under 3504(h)
Arnold Strasser, 202–395–6880

Information by prime sponsor is required for submission in annual reports to Congress and to the President. Summary data are also used for management and are tabulated at the regional and national levels. Data are also used for congressional responses and news releases.

- Employment and Training Administration

State Agency Program and Budget Plan
ET Handbook 336
Annually
State or local governments

State Employment Security Agencies
SIC: 944
Training and employment, 54 responses, 7,928 hours; $90,220 Federal cost, 1 form; not applicable under 3504(h)
Arnold Strasser, 202-395-6880

Provides the basis for the States' application for grant funds for the fiscal year, enables a State to plan a year's activity based upon targets issued by ETA, provides information on the States' commitment regarding planned performance for the fiscal year and provides a basis for the monitoring and review of SESA activities.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202-634-5394

New

• Internal Revenue Service
Appl. for Recognition of Exempt. Under Section 501(c)(3) of the IRC and Consent Fixing Period of Limit. Upon Assess. of Tax Under Section 4940 of the IRC
1023 & 872-C
Nonrecurring
Businesses or other institutions
Organs. operated for rel., char., sci., lit. and ed. purposes
SIC: 806, 811, 821, 822, 823, 839, 841, 842, 864, 866
Small businesses or organizations
Central fiscal operations, 40,670 responses, 1,208,719 hours; $258,938 Federal cost, 2 forms; not applicable under 3504(h)
Warren Topelius, 202-395-7340

Charitable organs. file Form 1023 to apply for exempt. from Fed. income tax as being described in IRC S. 501(C)(3). Those organized after 10/9/69 also file it to notify IRS of intent to apply (as req. by IRC S. 508). Form 872 extends the statute of limitation for assess. and collecting the tax on net invest. income if the organ. is determined to be a private found. The information provides the basis for determining whether the organ. is exempt and whether it is a private foundation.

Revisions

• Internal Revenue Service
Application for Recognition of Exemption Under Section 501(a) or for Determination Under Section 120
1024
Nonrecurring
Businesses or other institutions
Organizations seeking tax-exempt status
SIC: Multiple
Central fiscal operations, 12,039 responses, 290,871 hours; $91,629 Federal cost, 1 form; not applicable under 3504(h)
Warren Topelius, 202-395-7340

Organizations wanting to be exempt from Federal income tax under IRC section 501(a) as organizations described under most paragraphs of section 501(c) must apply to IRS for a determination or ruling. Group legal services plans described in S. 120 must apply for a determination by filing Form 1024. The information supplied is used by IRS to determine whether the organization qualifies for exempt status or whether the group legal services plan qualifies.

COMMODITY FUTURES TRADING COMMISSION

Agency Clearance Officer—Joseph G. Salazar—254-9735

New

• Regulations Permitting the Grant, Offer and Sale of Options on Physical Commodities
On occasion, monthly, quarterly
Business or other institutions
Regis. dealer grantors and futures comm. mer. trad. deal. op.
SIC: 622
Other Advancement and regulation of commerce; 1 response, 1 hour; $129,211 Federal cost, 1 form; not applicable under 3504(h)
Robert Veeder, 202-395-4814

The information collection requirement in this set of rules is intended to protect the public trading dealer options by assuring them of the adequate disclosure of needed information and by assuring that the commission has needed information on the financial stability of option grantors.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Howard Howell—202-287-0800

New

• Application for EPA Recognition as a Motor Vehicle Emission Testing laboratory
Quarterly
Business or other institutions
Comm. lab. engaged in emission testing of motor vehicles
SIC: 739
Small businesses or organizations
Pollution control and abatement, 64 responses; 192 hours, 1 form, not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

This information is needed to evaluate commercial laboratories capable of performing emission tests on motor vehicles. It will be used to assemble a list of competent companies. Private individuals who require independent test data in accordance with CFR will be able to draw from this list.

EXPORT-IMPORT BANK OF THE UNITED STATES

Agency Clearance Officer—Adrian Wainwright—202-566-8111

New

• Export Finance Study
Nonrecurring
Businesses or other institutions
Large U.S. capital goods exporting firms
SIC: Multiple
International financing programs, 0 responses; 0 hours; $30,000 Federal cost, 1 form, not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

To develop more complete information on the means by which U.S. capital goods exports are financed and the Role Eximbank plays. Such information will be used to analyze existing exim program effectiveness and to develop more useful programs in the future.

FEDERAL MARITIME COMMISSION

Agency Clearance Officer—Ronald D. Murphy—523-5326

Extensions (no change)

• General order 14—shippers' requests and complaints
46 CFR 527
Annually
Business or other institutions
Steamship conference in U.S. foreign commerce
SIC: 441 442
Water transportation; 98 responses, $7,700 Federal cost, 980 hours; 1 form, not applicable under 3504(h)
William T. Adams, 202-395-4814

Each conference and other body ratemaking authority under an approved agreement filed with the commission must file reports detailing shippers requests and complaints received during the preceding calendar year and the disposition of such. Resident representatives domiciled outside the U.S., must keep a complete record of complaints and requests. The Commission uses the reports to determine conferences adequacy in handling them.

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—Carolyn B. Doying—202-452-351

New

• Report on Selected Deposits in Foreign Branches Held by U.S. Residents
FR 2050
Weekly
businesses or other institutions
Foreign branches of member banks and Edge Act Corporations

SIC: 602 605
General government, 2,184 responses, $22,997 Federal cost, 4,914 hours; 1 form, not applicable under 3504(h)
Warren Topelius, 202–395–7340
Information is used to monitor the growth of overnight Eurodollar deposits, which form a component of the monetary aggregates.

- Monthly Report on Foreign Branch Assets and Liabilities

FR 2502
Monthly
Businesses or other institutions
Foreign branches of member and nonmember banks and Edge Act Corp.
SIC: 602, 605
General government, 3,840 responses, 9,946 hours; $164,047 Federal cost, 1 form; not applicable under 3504(h)
Warren Topelius, 202–395–7340

Information is essential for monitoring developments in the Eurodollar Market and other foreign financial markets. These data also provide background for, and are used in the analysis of certain issues related to monetary policy and bank regulation.

- Quarterly Report on Foreign Branch Assets and Liabilities

FR 2502S
Quarterly
Businesses or other institutions
Foreign branches of member and nonmember banks and Edge Act Corp.
SIC: 602, 605
General government, 1,280 responses, 4,480 hours; $30,225 Federal cost, 1 form; not applicable under 3504(h)
Warren Topelius, 202–395–7340

Report collects information on the geographical distribution of assets and liabilities from the same respondents that file the FR 2502 report. These data provide information on branch activities, including their lending to less-developed countries. This report, which is a supplement to the FR 2502 report, is used for supervisory, regulatory, and monetary policy purposes.

- Survey of Household Transaction Accounts

FR 3014
Nonrecurring
Individuals or households
Sample of about 10,000 households nationwide
General government, 10,000 responses, 1,000 hours; $85,000 Federal cost, 1 form; not applicable under 3504(h)
Warren Topelius, 202–395–7340

This information will be used by the Federal Reserve Board and the Federal Open Market Committee to interpret developments in the area of NOW and other related accounts and to estimate their effect on the narrow monetary aggregates.

INTERSTATE COMMERCE COMMISSION

Agency Clearance Officer—Carroll Stearns

Revisions

- Quarterly Consensed Balance Sheet

CBS
Quarterly
Businesses or other institutions
Class I line-haul railroads
Ground transportation, 164 responses, 1,148 hours; $2,774 Federal cost, 1 form; not applicable under 3504(h)
Corrinne Hayward, 202–395–7340

Financial data showing carriers current assets and liabilities and expenditures for additions and betterments are essential to the proper administration of the Interstate Commerce Commission Act. Reports are used by the Commission to assess industry growth. Sudden changes in carrier financial stability and by the Commission and others to identify changes and trends that may affect the National Transportation System.

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—202–357–7811

New

- Statement of Financial Status

NSF 1148
Nonrecurring
Individuals or households
Delinquent individuals (grants made to individuals)
General science and basic research, 25 responses, 13 hours; $500 Federal cost, 1 form; not applicable under 3504(h)
Marsha D. Traynham, 202–395–7340

To determine an individual's ability to repay to the United States.

SECURITIES AND EXCHANGE COMMISSION

Agency Clearance Officer—George G. Kundahl

New

- Going Private Transactions by Certain Issuers or Their Affiliates

SEC 1893
On occasion
Businesses or other institutions
Issuers registered under S. 12 or 15(d) of the Sea of 1934
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce, 187 responses, 187 hours; $204,700 Federal cost, 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Due to the harm to security holders which may attend going private transactions, rule 13E–3 and schedule 13E–3 which became effective in September 1979, require disclosure of information important to security holders in deciding how to respond to such transactions. The Commission is proposing to amend the rule to exempt certain transactions from the disclosure requirements and to make other clarifying and technical changes.

C. Louis Kincannon,
Assistant Administrator for Reports Management.

[FR Doc. 81-13847 Filed 5-6-81; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-17761; File No. SR-MSRB-81-4]

Self-Regulatory Organizations; Proposed Rule Changes By Municipal Securities Rulemaking Board

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 16, 1981, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The Municipal Securities Rulemaking Board is filing herewith amendments to rule G–35 relating to the Board's Arbitration Committee (hereinafter referred to as "the proposed rule change") as follows:[1]

Rule G–35. Arbitration.

Sections 1–2. No change.

Section 3. Arbitration Committee.

(a) Appointment. The Board shall appoint an Arbitration Committee composed of seven members. The membership of the Arbitration Committee shall consist of three members of the Board, three persons who are not members of the Board and the Director of Arbitration. At all times, one of the members of the Board and one of the persons who are not members of the Board shall be associated with and representative of bank dealers, one each shall be associated with and representative of municipal securities

[1] *Italics* indicate new language; [brackets] indicate deletions.

brokers and municipal securities dealers other than bank dealers, and one each shall not be associated with any broker, dealer or municipal securities dealer. [Except as hereinafter indicated,] The non-Board members of the Arbitration Committee, other than the Director of Arbitration, shall serve for two-year terms[.] *and the Board members shall serve for one-year terms.* [Notwithstanding the foregoing, with respect to the initial members of the Arbitration Committee, the Board shall appoint one or two of the Board members and one or two of the persons who are not Board members to a term of one year, so that the terms of members of the Arbitration Committee shall not all expire in the same year.] The Director of Arbitration shall serve as a member of the Arbitration Committee [as long as he or she remains in office] *at the pleasure of the Board.* Vacancies on the Arbitration Committee shall be filled by the Board. Any person selected to fill a vacancy shall serve only for the remainder of the term of such person's predecessor. The Chairman of the Arbitration Committee shall be selected by the Board and shall serve as Chairman for a one-year term.

(b) No change.

Sections 4–34. No change.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and statutory Basis for, the Proposed Rule Change

(1) Section G–35 provides that the Board shall appoint an Arbitration Committee composed of three members of the Board, three individuals who are not members of the Board, and a Director of Arbitration who may, but need not be, a member or employee of the Board. Presently, all members of the Arbitration Committee serve two-year terms except for the Director of Arbitration who serves at the pleasure of the Board. The Board has found that the present two-year terms unnecessarily restrict participation in the Arbitration Committee's activities to a limited number of Board members. It, therefore, has determined that it would be appropriate to reduce the term of Board members to one year to permit a greater number of Board members to serve on that important committee. The proposed rule change also deletes a provision relating to the terms of the initial members of the Arbitration Committee as that provision no longer is necessary and clarifies that the Director of Arbitration serves at the pleasure of the Board.

(2) The Board has adopted the proposed rule change pursuant to section 15B(b)(1)(D) of the Securities Exchange Act. Section 15B(b)(1)(D) establishes the Board's general authority to adopt rules providing for the arbitration of claims, disputes, and controversies relating to transactions in municipal securities. The proposed rule change will provide increased opportunities for Board members to serve on the Arbitration Committee and, thereby, enhance the effectiveness of that Committee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not affect the conduct of business by any broker, dealer, or municipal securities dealer. The Board therefore believes that the proposed rule change would not impose any burden on competition.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before May 28, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 29, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81–13794 Filed 5–6–81; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–17760; File No. SR–CBOE–81–6]

Chicago Board Options Exchange, Incorporated; Relating to GNMA Options; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 7, 1981, the Chicago Board Options Exchange, Incorporated, ("CBOE" or "self-regulatory organization") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Approval of Underlying Securities

Rule 20.7. [no change]

* * * Interpretations and Policies.

.01 The Board has determined that (i) *only GNMA single family pools containing loans providing for repayment in equal monthly installments shall be eligible as underlying securities for GNMA options dealt in on the Exchange; and (ii)* GNMA pools which include builder loans *i.e., loans for the purpose of financing builders' inventories, including operative builder, builder/investor, and escrow commitment procedure loans)* shall be ineligible as underlying securities for GNMA options dealt in on the Exchange.

.02 [no change]

* * * * *

Accommodation Liquidations

Rule 20.14. [no change]

* * * *Interpretations and Policies.*

.01 For purposes of the applicable provisions of Rule 6.54 and the Interpretations and Policies thereto, references to transactions and orders at a price of $.01 per share shall be deemed to refer, in the case of GNMA options, to transactions and orders at a price of $1 per single call or put.

[Rule 20.14 *and Interpretation and Policy 20.14.01 supplement* [replaces] Rule 6.54.]

* * * * *

Determination of Value for Margin Purposes

Rule 20.25. [no change]

* * * Interpretations and Policies.

.01 The last sentence of Rule 20.25 is intended solely to give meaning to the term "current market value" with respect to any position in a particular GNMA options series for purposes of Rule 20.24. GNMA options contracts, like other options contracts, however, remain governed by Rule 12.5 and shall not be deemed to have market value for purposes of Rule 12.3(a)(1). As with other option contracts, the premium for a long GNMA option must be fully paid, and the proceeds received from selling a GNMA option may be applied toward the satisfaction of margin requirements.

[Ruole 20.25 *and Interpretation and Policy 20.25.01* supplement[s] Rule 12.5.]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(A) Purpose of Proposed Rule Changes. CBOE's proposed Rule changes clarify the meaning of CBOE's existing GNMA options rules with respect to (i) those GNMAS which have been approved as underlying securities for CBOE options, (ii) application of Rule 6.54 to GNMA options, and (iii) the meaning of the term "current market value" for purposes of Rule 20.24. The proposed Rule changes do not make any substantive change in the meaning of CBOE's existing rules.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The proposed Rule changes set forth herein would impose no burdens on competition:

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others.* Comments on the proposed Rule changes were neither solicited nor received.

III. Date of Effectivness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number in the caption above and should be submitted on or before May 28, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

April 29, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-13793 Filed 5-6-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96–221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceiling, and to its forfeiture and penalty provisions.

Effective May 15, 1981, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 14.055% per annum.

Dated: May 1, 1981.

Peter F. McNeish,

Deputy Associate Administrator for Investment.

[FR Doc. 81-13722 Filed 5-6-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Legal Adviser

[Public Notice 755]

Iran; Negotiations for Settlement of Claims Against Iran Special Telex Number for Bank Markazi

This notice supplements information provided in Public Notice 753 of May 4, 1981 (46 FR 25026). For additional information contact Peter J. Kirsch, Office of the Legal Adviser (Iranian Claims), Department of State, Washington, DC 20520. Telephone (202) 632–5040.

Further to Notice 753, the Central Bank of Iran, Bank Markazi Iran, has established a special telex number for the International Legal and Financial Claims Committee to which claimants with claims over $250,000 should communicate the description of their claims. That international (RCA) telex number is 951–213966 with an answer-back of MBZKIR. The telex number published in Public Notice 753 remains operative but Bank Markazi would prefer that claimants use the special telex number above for communicating

with the International Legal and Financial Claims Committee.

Gerald M. Rosberg,

Counselor on International Law.

May 5, 1981.

[FR Doc. 81-13861 Filed 5-6-81; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-81-12]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: May 27, 1981.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 1, 1981.

Edward P. Faberman,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
21672	Lincoln National Corp	14 CFR 91.32(b)	To allow petitioner to operate two Learjet 35A aircraft (1)(ii) up to 45,000 feet without requiring one pilot to wear and use an oxygen mask at all times above 35,000 feet.
21609	Ransome Airlines	14 CFR 21.197	A continuing authorization for use of a special flight permit program.
21423	Salmon Air Taxi	14 CFR 135.243(b)(3)	To allow petitioner to use pilots in command, who do not have instrument ratings, when operating in day visual flight rule conditions into remote or isolated areas.
21576	Fairchild Swearingen Corp	14 CFR 91.123(a)	To permit operation of large airplanes by a single pilot during pre-delivery flights.
21528	Mr. Daniel R. Stroud	14 CFR 91.22(a)(1)	To permit operation of petitioner's Bellanca SKCAB-180 airplane in certain operations without carrying the 30-minute fuel reserve required.
17067	Sis-Q Flying Service, Inc	14 CFR 91.27	Extension of Exemption 2430A which permits petitioner to operate DC-6 aircraft without a valid airworthiness certificate during ferry flights under certain conditions.
21015	Ransome Airlines (RAN)	14 CFR 135.63(c)(8)	To correct a misunderstanding on the conditions of Exemption 3159 which allows operations without identifying the crew on the load manifest. Specifically RAN wants Condition No. 1 to read: "Each flight must be dispatched through the Ransome Airlines Part 121 dispatch system."
21605	Alaska Airlines	14 CFR 121.574	To permit petitioner to carry and operate oxygen storage and dispensing equipment for medical use by patients being carried as revenue passengers.
21676	Mississippi Valley Airlines, Inc. (MVA)	14 CFR 65.53(a)	To allow Mr. Madsen to act as an aircraft dispatcher in MVA's operation before reaching 23 years of age.
21668	Britt Airways, Inc	14 CFR 93.123(a)	To permit petitioner an interim use of scheduled air taxi reservations to conduct certificated air carrier operations at Chicago O'Hare Airport for a period of 2 years.
21685	Midstate Airlines, Inc	14 CFR 93.123(a)	To permit petitioner an interim use of scheduled air taxi reservations to conduct certificated air carrier operations at Chicago O'Hare Airport for a period of 2 years.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
20812	Flight Safety International, Inc	14 CFR 61.65(e)(1)	To allow all students enrolled in petitioner's Helicopter Instrument Rating Course or Additional Instrument Rating Course (Helicopter) to be eligible to apply for the Helicopter Instrument Rating without having 50 hours of cross-country flight time as pilot in command in the category of aircraft for which an instrument rating is sought. *Cancelled.*
20938	Air Transport Association of America	14 CFR 121.391(d)	A 90-day extension of the August 31 compliance date, which requires that flight attendants must remain seated at their assigned duty stations with seat belts fastened during ground taxi. *Withdrawn 4/17/81.*
21834	Midstate Airlines Inc. (MAA)	14 CFR 61.31(a)(1)	To permit MAA's pilots to operate Swearingen Metro IIA aircraft without possessing the appropriate type rating for that aircraft. *Granted 4/17/81.*
20050	Jimsair Aviation	14 CFR 135.10(b)(3) and 135.173(a)	To permit operation in IFR weather without having the required thunderstorm detection equipment installed in its aircraft. *Denied 4/23/81.*
21366	Royale Airlines, Inc	14 CFR 91.52	To permit petitioner to conduct operations under Part 135 with airplanes which are not equipped with an automatic-type emergency locator transmitter. *Denied 4/27/81.*

Dispositions of Petitions for Exemptions—Continued

Docket No	Petitioner	Regulations affected	Description of relief sought disposition
21363	Bar Harbor Airlines	14 CFR 135.261(b)	To allow petitioner to assign a flight crewmember and to permit a flight crewmember to accept an assignment without complying with 10 consecutive hour rest period requirement during the 24-hour period preceding the planned completion of the assignment. *Denied 4/27/81.*
21381	Tennessee Airways	14 CFR 135.297(b)	To allow 10 pilots in command to conduct Part 135 operations without satisfactorily demonstrating a non-directional beacon (NDB) approach during the 6th-calendar month instrument proficiency check. *Granted 4/24/81.*
20479	Trans World Airlines	14 CFR 121.621(a)(1)	To permit the operation of overseas flights in excess of 6 hours with IFR no alternate releases. *Denied 4/27/81.*
21168	Executive Air Fleet	14 CFR 135.297(a)	To permit petitioner's pilots after receiving an annual instrument proficiency check, to train to proficiency in an approved airplane simulator in lieu of the next 6-month proficiency check. *Granted 4/27/81.*
21524	Transavia Holland b.v. and Air Florida	Parts 21 and 91	To operate one U.S.-registered Boeing 737-200 aircraft leased from Air Florida and using Air Florida's MEL. *Granted 4/29/81.*
21254	Renton Aviation, Inc.	14 CFR 135.203(a)(1)	To permit petitioner to conduct operations at an altitude below 500 feet over water outside of controlled airspace. *Granted 4/27/81.*

[FR Doc. 81-13701 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Tacoma, Pierce County, Wash.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed construction of Mildred Street for Sixth Avenue to North 17th Street as an arterial street in Tacoma, Pierce County, Washington.

FOR FURTHER INFORMATION CONTACT: William J. Glover, Environmental Engineer, Federal Highway Administration, Suite 501, Evergreen Plaza, 711 South Capitol Way, Olympia, Washington 98501, Telephone: (206)753-9480.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation and the City of Tacoma Public Works Department, will prepare an environmental impact statement (EIS) on a proposal for the construction of Mildred Street for Sixth Avenue to North 17th Street as an arterial route. The proposed improvement would provide a collector arterial facility into a highly developed residential area north of the future SR-16 between Jackson Avenue and Pearl Street thereby providing for the existing and projected traffic demand. The majority of the route would be constructed as a two-lane facility. Also proposed is a frontage road just north of the future SR-16 connecting Mildred Street and Skyline Drive.

Alternatives under consideration include: 1) Reconstructing Skyline Drive from Sixth Avenue to North 17th Street as two-lane collector arterial street, and 2) not constructing a vehicle overcrossing of SR-16 for either Skyline Drive or Mildred Street with access to the study area being provided by the existing arterial routes of Jackson Avenue and Pearl Street (no action).

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A public hearing will be held during the public review period for the draft EIS. Public notice will be given as to the time and place of the public hearing. The draft EIS will be available for public and agency review and comment. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding state and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program)

Issued on: April 27, 1981.

William J. Glover,

Environmental Engineer, Washington Division, Olympia, Wash.

[FR Doc. 81-13501 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Hamilton County, Indiana

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for the replacement or reconstruction of Bridge 218 over Stoney Creek in Hamilton County, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. John Breitwieser, Staff Environmental Specialist, Federal Highway Administration, 575 North Pennsylvania Street, Room 254, Indianapolis, Indiana 46204, Telephone: 317/269-7481.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Indiana State Highway Commission and the Commissioners of Hamilton County will prepare an EIS on a proposal to replace or repair the bridge across Stoney Creek and also improve the approaches to the bridge. This bridge has been closed to all traffic due to the deterioriated condition of the existing bridge since mid-March 1981. the project involves Hamilton County Bridge 218 over Stoney Creek on Greenfield Pike, located in the southeastern periphery of the Town of Noblesville. Greenfield Pike is one of the two arterial routes providing access to Noblesville from the south. Hence, the recent closure of this bridge due to structural deterioration poses a significant constraint to efficient access to and from Noblesbville. The existing bridge, a Baltimore (Petit) Truss, has been determined eligible for the National Register of Historic Places.

The bridge and approaches will be designed to efficiently accomodate the traffic demands for existing and projected levels along this roadway.

Six alternatives are proposed: Take no action; Remove and discard the existing bridge and construct a new bridge on the existing alignment; Relocate the existing bridge to another location for preservation and display purposes and construct a new bridge on the existing alignment; Bypass the existing bridge and construct a new

bridge on a new alignment to the northeast of the present site; Bypass the existing bridge and construct a new bridge on a new alignment to the southwest of the present site; (the last two alternatives also infer rehabilitation of the existing structure); and, Repair of the existing bridge.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and local agencies. No public meeting is planned. However, the contiguous property owners have been contacted and are aware of the project. An opportunity for a public hearing will be offered. The EIS will serve to document compliance with Section 106 of the National Historic Preservation Act of 1966, pursuant to the procedures of 36 CFR 800.9(d). In addition, the EIS will address considerations under Section 4(f) of the Department of Transportation Act of 1966. The draft EIS will be available for public and agency review and comment. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, (Highway Research, Planning and Construction). The provisions of OMB Circular A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and project apply to the program.)

Issued on: April 29, 1981.

George D. Gibson, Jr.,

Division Administrator, Indianapolis, Indiana.

[FR Doc. 81-13615 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Marion, Indiana

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for the improvement and extension on new alignment of Pennsylvania Street in northeast Marion, Grant County, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Breitwieser, Staff Environmental Specialist, Federal Highway Administration, 575 North Pennsylvania Street, Room 254, Indianapolis, Indiana 46204. Phone: 317/269-7481.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Indiana State Highway Commission, the City of Marion and Grant County, Indiana will be preparing an EIS on a proposal to improve an existing section of Pennsylvania Street from SR-18 to Bradford Street. From Bradford Street, Pennsylvania Street will be extended on new alignment to the intersection of Charles Road and SR-9 and SR-37. Total project length is approximately 2.5 miles of which 2 miles will be constructed on new alignment. The project is located in northeast Marion, Indiana. The purpose of the project is to develop a corridor between the rapidly developing area northeast of Marion to those areas south of the City. At present all traffic must enter the downtown area before dispersing to various locations in the City.

If developed, the new alternate will provide two 12-foot driving lanes within a typical right-of-way of 110 feet. Access will only be provided at intersecting roads. There are currently three alternatives being considered including the do-nothing alternate. The two proposed construction alternates have common alignments from their junction with SR-18 north to Charles Street where Pennsylvania Street currently terminates. From this point Alternate A traverses due north for 1,800 feet and joins Charles Road, thence along Charles Road to the junction with SR-9 and SR-37. Alternate B traverses north from Charles Street for 330 feet then northwesterly to the aforementioned junction of Charles Road and SR-9 and SR-37. Impacts include the acquisition of up to six residences and one business. Up to 27 acres of right-of-way depending on alternative will be required, most of which is undeveloped and agricultural land. The project will involve the relocation of approximately 400 feet of Massey Creek (low to intermittent flow). As proposed, the new road will coincide with approximately 300 linear feet of the creek. Two alternative treatments are being considered in this location. The project will also involve a new railroad grade crossing which will be protected by the appropriate warning devices.

Nineteen Federal, State, and local agencies have been coordinated with and there has been one informal public information meeting held in the project area. No scoping meeting is proposed. A formal Corridor Location Public Hearing will be conducted and its time and location will be advertised to the public.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Agencies, organizations and individuals interested in submitting comments or questions should direct them to the FHWA at the address above.

(Catalog of Federal Domestic Assistance Program No. 20.205, (Highway Research, Planning and Construction). The provisions of OMB Circular A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program).

Issued on: April 29, 1981.

George D. Gibson, Jr.,

Division Administrator, Indianapolis, Indiana.

[FR Doc. 81-13616 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Herkimer County, New York

AGENCY: Federal Highway Administration (FHWA), NYS Department of Transportation.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Herkimer County, New York.

FOR FURTHER INFORMATION CONTACT: Victor E. Taylor, Division Administrator, Federal Highway Administration, Leo W. O'Brien Federal Building, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 472-3616, or Roger Edwards, Deputy Chief Engineer, Facilities Design Division, New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, New York 12232, Telephone: 457-6452.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Department of Transportation, will prepare an environmental impact statement on a proposal to improve Route 5S in Herkimer County, New York. The proposed improvement would involve the relocation of 4± mile of Route 5S in the villages of Frankfort, Ilion and Mohawk beginning at the terminus of the existing 5S Expressway in Frankfort and proceeding easterly to the end of the Route 28-5S overlap in Mohawk. Improvements to the corridor are considered necessary to provide for future traffic demands.

Alternatives under consideration include (1) taking no action (2)

constructing a highway on new alignment with partial control of access.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A public hearing will be held after additional study. Public notice will be given of the time and place of the hearing. The draft EIS will be available for public and agency review and comment. No formal scoping meeting is planned.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on:

V. E. Taylor,

Division Administrator, Albany, NY.

[FR Doc. 81-13630 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Sonoma and Mendocino Counties, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a project proposing replacement of a bridge and relocation of a portion of Highway 101 in Sonoma and Mendocino Counties, California.

FOR FURTHER INFORMATION CONTACT: D. L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, telephone: (916) 440-3541.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation will prepare an environmental impact statement (EIS) on a project proposing to replace Russian River Bridge Number 20-31 at Preston and to relocate a portion of Route 101 in Sonoma and Mendocino Counties, California. A second bridge is proposed for construction on River Road (a Sonoma County road) at Big Sulphur Creek in order to maintain direct access between Preston and Cloverdale. The Russian River Bridge, which is located in the Russian River floodplain, has sustained structural damage as a consequence of ongoing, massive creep type earth movements at the bridge's north landing.

The proposed replacement bridge will be located at a geologically stable site, approximately two miles to the north of the existing bridge. This will necessitate relocating a three-mile long segment of highway 101 to the west side of the river. The proposal also includes removing the existing bridge and conveying jurisdiction of the existing highway to Sonoma and Mendocino Counties. The proposed facilit;y will require approximately 140 acres of right of way, most of which is undeveloped.

The EIS will consider two project alternatives including, (1) no-build, and (2) construction of a facility bypassing the existing bridge and slide area. Under the latter, three design variations along the same alignment will be considered and include, (1) grading and paving for two lanes plus truck climbing lanes, (2) grading for four lanes and paving two lanes plus truck climbing lanes, and (3) grading and paving for four lanes.

The proposed project, which is located in a rural area, will provide a replacement bridge on stable ground and will bypass an area of recurring major landslides. A number of effects on the area's environment will result including, (1) removal of 80 to 90 acres of vegetation in a heavily forested area, and displacement of a corresponding amount of animal life, (2) alteration of visual quality, (3) displacement of five single-family low and moderate income residences and (4) alteration of present patterns of traffic circulation. The proposed project will provide a modern, structurally adequate replacement bridge on stable ground and will bypass an area of recurring major landslides. Even though past Indian activity existed in the project area, archaeological surveys did not result in the identification of surface resources. However, it is recognized that subsurface archaeological resources could be involved.

A formal interdisciplinary team approach is planned for this study to insure the interaction of different disciplines through all stages of development of the environmental document. This interdisciplinary team will include representatives from the appropriate federal, state and local agencies and any other organizations that have an interest in the study. A public information meeting concerning this project was held on March 29, 1978. No formal scoping meeting has been scheduled at this time; however, one will be scheduled if needed.

To ensure that the full range of issues is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposal and the EIS should be directed to the FHWA at the address provided above.

Issued on: April 28, 1981.

D. L. Eyres,

District Engineer, Sacramento, California.

[FR Doc. 81-13583 Filed 5-6-81; 8:45 am]

BILLING CODE 4109-22-M

Environmental Impact Statement: Umatilla County, Oregon

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Umatilla County, Oregon.

FOR FURTHER INFORMATION CONTACT: Ernest J. Valach, FHWA, The Equitable Center, Suite 100, 530 Center Street NE., Salem, Oregon 97301. Telephone (503) 378-3832.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation, will prepare an environmental impact statement on the proposed improvement of U.S. 395 from the north city limits of Stanfield to the interchange with I-84, a distance of 2.85 miles. The proposed project would widen or realign U.S. 395 to improve traffic efficiency and safety on this section of the highway. Alternatives under consideration include (1) taking no action, (2) widening the existing route through downtown Stanfield, (3) construct a bypass along the eastern boundary of Stanfield, and (4) other feasible alternatives that may develop during the project study. Information describing the proposed action will be sent to the appropriate Federal, State, and local agencies and to private organizations and citizens who have previously expressed interest in this proposal. As necessary, public meetings will be held and, in addition, a public hearing will be held. No formal scoping meeting is planned at this time. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above. Catalog of Federal Domestic Assistance Program Number 20.205, Construction of Stanfield N.C.L. to Stanfield Interchange of the Umatilla Stanfield Highway. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federal assisted programs and projects apply to this program.

Issued on: April 23, 1981.

Ernest J. Valach,

Program Development Engineer, Oregon Division, Salem, Oregon.

[FR Doc. 81-13564 Filed 5-5-81; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Delaware County, Chester, Pennsylvania

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Chester, Delaware County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John R. Krause, Environmental Engineer, Federal Highway Administration, 228 Walnut Street, Harrisburg, Pennsylvania 17108, Telephone: (717) 782-2276, or Robert L. Rowland, P.E. District Engineer, Pennsylvania Department of Transportation, 200 Radnor-Chester Road, St. Davids, Pennsylvania 19087, Telephone: (215) 687-1600.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation, will be preparing an environmental impact statement (EIS) on a proposal to modify L.R. 542 Section 10 (from the intersection of Fourth Street and Price Street in the Borough of Trainer to the intersection of L.R. 542 with L.R. 130 Spur A, Wanamaker Avenue. The proposed project would significantly improve highway facilities to accommodate existing and projected traffic demands and to promot economic growth and development in the City of Chester. Alternatives to be considered include (1) improvement to the existing traffic system network (Traffic Systems Management) (2) construction of full width 4 land alignment including median provisions (3) realignments of a 4 lane facility to avoid affecting certain recreational, cultural and historic 4(f) areas (4) downscoped 4 lane facility to reduce width to mitigate adverse effects on adjacent land (5) a no build section.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have expressed interest in this proposal. A series of public meetings will be held in the St. Davids and Chester area between May 1981, and August 1982. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment. Formal scoping meetings are planned for May-June 1981. To insure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: April 29, 1981.

Donald E. Hammer,

Division Administrator, Harrisburg, Pa.

[FR Doc. 81-13565 Filed 5-5-81; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement, San Juan, Bayamon; Puerto Rico

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public an Environmental Impact Statement will be prepared for a proposed highway project in San Juan Metropolitan Area, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Alonzo, Federal Highway Administration, Federico Degetau Federal Building and U.S. Courthouse, Room 150, Carlos Chardón Street, Hato Rey, Puerto Rico 00918—Telephone: (809) 753-4600 or Néstor Quevedo Cordero, Chief, Environmental studies Division, Puerto Rico Department of Transportation and Public Works, Box 41269, Minillas Station, Santurce, Puerto Rico 00940 Telephone: (809) 726-7060.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Puerto Rico Department of Transportation and Public Works, will prepare an Environmental Impact Statement (EIS) on a proposal for the construction of Route PR-21, 65th. Infantry Freeway in San Juan, Puerto Rico. The proposed action would consist of the construction of 65th. Infantry Freeway from Las Américas Freeway (Route PR-18) in Rio Piedras to Rio Hondo Expressway (Route PR-5) in Bayamón.

The freeway will have a typical section of eight (8) traffic lanes divided by an eleven (11) metres median from PR-18 to Ramirez de Arellano Avenue, where it narrows to six (6) traffic lanes up to Route PR-2. Interchanges at De Diego Avenue, Guaynabo Freeway, Ramirez de Arellano Avenue and PR-2 will be provided. The median of the proposed project from PR-18 to PR-2 will be used as the right-of-way of a mass transit system proposed for the area.

The need of the proposed action is related both to the long-range travel requirements of the San Juan Metropolitan Area and to immediate needs in the vicinity area and it is an integral part of the 1995 Recommended Plan and Growth Analysis, San Juan Transportation Study.

Alternatives under consideration include: (1) taking no action, (2) alternative location, (3) mass transit system, (4) reduced facility, (5) postponing the action, (6) design alternatives.

Consultation letters describing the proposed action have been sent to the concerned Federal, State and Local agencies in order to obtain recommendations that will be properly considered in the Environmental Impact Statement. A formal scoping meeting will be held on May 21, 1981, in the Environmental Studies Office of the P.R. Department of Transportation and Public Works, located on 15th Floor of South Building, Minillas Governmental Center, San Juan, Puerto Rico.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Juan O. Cruz,

Acting Division Administrator, San Juan, Puerto Rico.

[FR Doc. 81-13811 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Petitions on Motor Vehicle Defects and Hearings; Denials

This notice sets forth the reasons for the denials of two petitions relating to safety-related defects in motor vehicles.

Rolland Garber of Bellmawr, New Jersey, petitioned NHTSA on January 19, 1981, to hold a hearing to determine whether Volkswagen of America had reasonably met its obligation to remedy his 1979 Rabbit pursuant to its "EQ Recall Campaign" alleging difficulties with his dealer. NHTSA's inquiry resulted in its notification by Volkswagen that Mr. Garber's vehicle has been corrected in accordance with the campaign, and that he had agreed to return the vehicle to the dealer for correction of any post-repair problems

that might have arisen. Based upon the fact that the problem was resolved without holding a hearing, the peition was denied on March 26, 1981.

On Jaunuary 24, 1981, Curtis S. Ikehara of Aiea, Hawaii, asked NHTSA to determine whether Fiat Motors of North America had met its responsibility to correct a safety-related defect in his 1979 Fiat Xl/9 car with respect to "carburetor hesitation." Mr. Ikehara had experienced delays with his dealer who had no repair parts. After inquiry by NHTSA Fiat informed the agency that repairs had been effected on March 9, 1981. Since no hearing was necessary to resolve the problem, Mr. Ikehara's petition was denied on April 2, 1981.

(Sec. 156, Pub. L. 93-492, 38 Stat. 1470 (15 U.S.C. 1416); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on May 4, 1981.

Lynn Bradford,

Associate Administrator for Enforcement.

[FR Doc. 81-13823 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. No. 81-120]

Reimbursable Services—Excess Cost of Preclearance Operations

Notice is hereby given that pursuant to section 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning May 17, 1981.

Installation	Biweekly excess cost
Montreal, Canada	$16,942
Toronto, Canada	29,581
Kindley Field, Bermuda	6,813
Nassau, Bahama Islands	18,628
Vancouver, Canada	15,057
Winnipeg, Canada	4,144
Freeport, Bahama Islands	10,597
Calgary, Canada	8,944
Edmonton, Canada	5,682

Jack L. Lacy

Comptroller.

[FR Doc. 81-13831 Filed 5-6-81; 8:45 am]

BILLING CODE 4810-22-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 88
Thursday, May 7, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME:

Monday, May 11, 1981, 9 a.m.–12 noon; 1:30–5 p.m.
Tuesday, May 12, 9 a.m.–12 noon; 1:30 p.m.–5 p.m.
Wednesday, May 13, 1:30 p.m.–4 p.m.

PLACE: Room 512, 1121 Vermont Avenue, N.W., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Monday, May 11:

I. Approval of Agenda.
II. Approval of Minutes of Last Meeting.
III. Review of Voting Rights Act Study.
IV. Review of Budget Impact Statement.

Tuesday, May 12:

V. Review of Equal Opportunity in the Foreign Service.
VI. Review of National Police Practices Report Recommendations.

Wednesday, May 13:

VII. Approval of Proposal for Hearing on Urban Minority Economic Development.
VIII. Memorandum on Monitoring Program.
IX. Presentation of State Advisory Committee Re-Charters: (A) California; (B) Delaware; (C) North Carolina; (D) Wyoming.
X. Transmittal of Maine Advisory Committee *Information Kit on Sexual Harassment in Employment.*
XI. Action re New Jersey Advisory Committee Report Entitled *Battered Women in New Jersey.*
XII. Civil Rights Developments in the Rocky Mountain Region.
XIII. Staff Director's Report: (A) Status of Funds; (B) Personnel Report; (C) Office Directors' Reports.
XIV. Action re Inquiries Pertaining to "Laurel and Laurel—A City Divided."

PERSONS TO CONTACT FOR FURTHER INFORMATION: Charles Rivera or Barbara Brooks, Press and Communications Division, (202) 254-6697.

[S-719-81 Filed 5-5-81; 3:11 pm]

BILLING CODE 6335-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Tuesday, May 12, 1981.

PLACE: 2033 K Street, N.W., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial Session.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-722-81 Filed 5-5-81; 3:19 pm]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, May 12, 1981.

PLACE: 2033 K Street, N.W., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-720-81 Filed 5-5-81; 3:19 pm]

BILLING CODE 6351-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, May 7, 1981, following the Open Meeting, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Petitions for Stay and Reconsideration in the Harold A. Jahnke, Hampton, Iowa, extension of FM construction permit proceeding (Docket No. 21420).
Hearing—2—Applications for Review in the Phoenix, Arizona comparative FM proceeding (BC Docket Nos. 78-40, 78-41, 78-43), and other related pleadings.
Hearing—3—Application for Review of a Review Board Decision in the Kansas City, Missouri, Domestic Public Land Mobile Radio Service proceeding (CC Docket Nos. 78-397 and 78-398).
Hearing—4—Motion For Consolidation in the Dillon, Colorado, comparative AM proceeding (BC Docket Nos. 80-712 through 80-718).
Hearing—5—Petition for Reconsideration in the Faith Center, Inc., San Bernardino, California television renewal proceeding. (BC Docket No. 78-326).
Hearing—6—Petitions for reconsideration in the Faith Center, Inc., San Bernardino, California television renewal proceeding. (BC Docket No. 78-326).
Hearing—7—Petition for Reconsideration in the Faith Center, Inc., WHCT-TV Hartford, Connecticut television renewal proceeding. (BC Docket No. 80-730).
Hearing—8—Draft Decision in the WDRK, Greenville, Ohio FM radio comparative renewal proceeding (Docket Nos. 21267 and 78-91).
General—1—Review of Proposed Personnel Action.

This Meeting may be contined the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: May 1, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-714-81 Filed 5-5-81; 12:11 pm]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold an open Meeting on the subjects listed below on Thursday, May 7, 1981, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W.

Agenda, Item No., and Subject

General—1—*Title:* Report and Order to amend the rules to provide for the transmission of motion pictures or other program material to hotels or other similar locations using microwave frequencies available under Part 94. *Summary:* The FCC will consider whether to amend Part 94, Private Operational-Fixed Microwave Service, to specify the conditions, including frequency assignments, applicable to the transmission of program material on frequencies assignable under that Part. Adoption of these amendments would allow a licensee to transmit the licensee's

program material and services to the licensee's customers, but only in certain frequency bands.

General—2—*Title:* Petitions for reconsideration of Commission's Report and Order adopting permanent policies and rules regarding *ex parte* presentations in rulemaking proceedings. *Summary:* The Media Access Project (MAP) and National Telecommunications and Information Agency (NTIA) filed petitions for reconsideration of the Commission's Report and Order. MAP principally argues that that Order violates certain judicial rules of law and proposes changes to the disclosure provisions of the *ex parte* rules. NTIA principally argues that the Commission's "restricted" classification is too narrow in scope and inconsistent with recent court decisions. The Commission must decide whether to grant or deny, in whole or in part, these petitions.

Private Radio—1—*Title:* Tentative Decision and Further Notice of Proposed Rule Making, Docket No. 18921. *Summary:* The Commission will consider whether to adopt a Tentative Decision and Further Notice of Proposed Rule Making dealing with the cooperative sharing and multiple licensing of facilities in the private land mobile radio service.

Private Radio—2—*Title:* Amendment of Part 90 of the Commission's rules to designate frequencies in the 806–821 MHz and 851–866 MHz bands for slow-growth land mobile radio systems of certain categories of users; to allocate frequencies in these bands for specific groups of radio services frequency pools; to facilitate authorization of wide-area mobile radio communications systems on frequencies allocated for trunked systems; and to allocate additional frequencies in these bands to loaded Specialized Mobile Relay-Trunked systems located in areas having all presently allocated trunked frequencies assigned (PR Docket Nos. 79–191 and 79–334; RM–3691). *Summary:* The FCC will consider whether to adopt a Further Notice of Proposed Rule Making that acts upon petitions for reconsideration of its Report and Order making special provision for slow-growth private land mobile radio systems in the 806–821 MHz and 851–866 MHz bands for certain categories of radio users (PR Docket No. 79–191, FCC 80–663, released December 10, 1980); whether to allocate frequencies in these bands, which have been held in reserve, for specific groups of radio services frequency pools; whether to adopt proposed rules facilitating authorization of wide-area mobile radio communications systems on frequencies in these bands allocated for trunked systems (PR Docket No. 79–334, FCC 79–855, released January 3, 1980); and whether to institute rule making to allocate additional frequencies in these bands to loaded Specialized Mobile Relay-Trunked systems located in areas having all presently-allocated trunked frequencies assigned (RM–3691).

Common Carrier—1—*Title:* Use of Recording Devices in Connection With Telephone Service (Docket 20840). *Summary:* The Commission is considering its beep tone requirement, which is presently a Commission mandated tariff provision in AT&T's MTS tariff. An Inquiry (June 24, 1976) and a Rulemaking (March 20, 1978) were released in this proceeding. Among the issues considered in this proceeding are: (1) Whether the tone warning requirement should be deleted and replaced with an all-party consent requirement which we would adopt as a rule of the Commission; (2) Whether the beep tone requirement should encompass private line services which have no access to the public switched network.

Common Carrier—2—*Title:* Notice of Proposed Rulemaking. *Summary:* A *Notice* is being issued to determine if the Commission should eliminate its prescribed tariff requirement concerning the recording of telephone conversations.

Common Carrier—3—*Title:* The Western Union Telegraph Company, Tariff FCC No. 271, Facilities for Use by United States Postal Service, Transmittal No. 7467. *Summary:* The Commission will consider an application for review of a Bureau order rejecting Western Union's proposed tariff.

Common Carrier—4—*Title:* Application of Southern Pacific Telecommunications Processing Company to provide a basic store-and-forward telex service between the United States and the United Kingdom. *Summary:* This item considers the application of a new international resale common carrier. The item addresses the threshold *Computer II* issue and the merits of the application.

Common Carrier—5—*Title:* Application for review filed by the Western Union Telegraph Company of the Bureau's authorizations to the international record carriers to implement the *Gateways* decision. *Summary:* Commission will consider application for review filed by the Western Union Telegraph Company. Western Union seeks vacation of Bureau authorizations made pursuant to delegated authority.

Common Carrier—6—*Title:* Application of Unitel Corporation for authority to provide voice-grade telex services between the United States and the United Kingdom. *Summary:* This item considers the application of a new telex provider which performs store and forward services over international telecommunications facilities. The issue addressed is whether authorization of this applicant will serve the public interest.

Common Carrier—7—*Title:* Interface of the International Telex Service with the Domestic Telex and TWX Service—Docket No. 21005. *Summary:* The Commission will consider the question of deregulation of the international record carriers' provision of telex terminal equipment.

Common Carrier—8—*Title:* In the Matter of RCA Global Communications, Inc. v. Western Union International, Inc. (File No. E–80–24); The Western Union Telegraph Company v. Western Union International, Inc. (File No. E–80–26); and Western Union International, Inc. v. RCA Global Communications, Inc. (File No. E–80–32). *Summary:* The Commission will consider what action to take in response to complaints alleging that international record carriers are violating Section 203 of the Communications Act by providing telex terminal equipment free or at charges below their tariffed rates.

Common Carrier—9—*Title:* Petitions to suspend or to reject AT&T tariff revisions proposing a 16.4% increase in rates for private line services. *Summary:* The Commission will consider whether to grant petitions requesting rejection or suspension and investigation of the American Telephone and Telegraph Company's tariff revisions filed February 13, 1981 proposing and across-the-board 16.4% percent increase in rates for private line services.

Common Carrier—10—*Title:* Docket No. 80–765—Revisions to AT&T's Tariff FCC No. 259, WATS (Transmittal No. 13555); Docket No. 80–54—Regulatory Policies Concerning Resale and Shared Use of Common Carrier Domestic Public Switched Network Services. *Summary:* The Commission will consider results of its investigation of AT&T's September, 1980, WATS proposal concerning incorporation of a time-of-day sensitive rate sturcture element into that tariff. Additionally, petition for reconsideration and motion for expedited relief filed with regard to Commission action ordering removal of resale and sharing restrictions in AT&T's MTS and WATS tariffs will be considered.

Common Carrier—11—*Title:* Integration of Rates and Services for Communications Between the United States Mainland and Alaska and Hawaii—Docket No. 21263. Joint Motions for Approval of Settlement Agreements Filed by AT&T, Hawaiian Telephone Co., and Alascom, Inc. *Summary:* Based on a proposed recommended decision of the Federal-State Joint Board the Commission will consider whether the existing Separations Manual, incorporated by reference into Part 67 of the Rules, should be applicable to separations procedures for MTS and WATS services between the United States Mainland and Alaska and Hawaii. The Commission will also consider whether to accept agreements reached by AT&T, Hawaiian Telephone Co. and Alascom, Inc. which propose interim settlement procedures pending final rate integration for Alaska/Hawaii services.

Common Carrier—12—*Title:* Notice of Inquiry into the policies to be followed in the future licensing of telecommunications facilities in the Pacific Region for the 1981–1995 time period. *Summary:* This item considers the initiation of a comprehensive facilities planning process for the Pacific Region during the 1981–1995 time period. The issue is whether a comprehensive review of the Pacific Region during the specified time period is more desirable than the Commission's current ad hoc application review process.

Common Carrier—13—*Title:* Petitions for Reconsideration of the Commission's *Memorandum Opinion and Order* clarifying the procedure for waiver of the Telephone Company-Cable Television Cross-Ownership Rules. *Summary:* The Commission will resolve Petitions for

Reconsideration of the *Memorandum Opinion and Order* in CC Docket No. 78-219, which announced that the Commission would examine each separate franchise area within a telephone company's proposed cable television service area to see if it contains less than 30 households per route mile, in which case a presumption arises in favor of waiver of the telephone company-cable television cross-ownership rules.

Renewal—1—*Title:* Petition to deny the renewal application of Miami Valley Broadcasting Corporation for Station KTVU-TV, Oakland, California, filed by the Bay Area Black Media Coalition. *Summary:* The Commission considers allegations by the Bay Area Black Media Coalition that Station KTVU-TV, has failed to provide equal employment opportunities for Blacks.

Renewal—2—*Title:* Application for renewal of license of Station WLAU, Laurel, Mississippi. *Summary:* The Commission considers the short-term license renewal application of Station WLAU, Laurel, Mississippi filed by Southland, Inc.

Renewal—3—*Title:* Application for renewal of license of Station WXGI, Richmond, Virginia. *Summary:* The Commission considers the short-term license renewal application of Station WXGI, Richmond, Virginia, filed by Radio Virginia, Incorporated.

Renewal—4—*Title:* Petition to Deny the Renewal Application of American Broadcasting Companies, Inc. for Station KABC-TV, Los Angeles, California, filed by the Los Angeles Black Media Coalition. *Summary:* The Commission considers allegations by the Los Angeles Black Media Coalition that Station KABC-TV has an ineffective equal employment opportunity program and that the station's programming is unresponsive to the needs of the Black community.

Television—1—*Title:* Application of KTVO, Inc. (BPCT-780720IB) Kirksville, Missouri, for changes in the facilities of television Station KTVO, Channel 3, and Petition to Deny that application. *Summary:* The proposed Order considers allegations raised by Channel Seventeen, Inc. regarding claimed economic injury under the Commission's UHF impact policy; *de facto* reallocation, misrepresentation and adverse environmental impact on the part of licensee; and whether licensee's proposed creation of an unserved area is a matter to be resolved in hearing.

Television—2—*Title:* Southern Television Corp. *Summary:* Application filed by Southern Television Corporation for authority to construct a new UHF television translator station in Columbia, Mississippi. A petition to deny filed by Columbus TV Cable Corp. Petitioner alleges that grant of the application will result in a regional concentration of control in violation of Section 73.636 of the Commission's Rules.

Broadcast—1—*Title:* Order in the Matter of Ascertainment of Community Problems by Broadcast Applicants: Small Market Exemption. *Summary:* The Order considers the advisability of continuing the ascertainment exemption for television stations in communities with populations of 10,000 or less persons but not located within a Standard Metropolitan Statistical Area.

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 Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: May 1, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S. 6712-01 Filed 5-5-81; 12:11 pm]

BILLING CODE 6712-01-M

6

FEDERAL COMMUNICATIONS COMMISSION.

Deletion of Agenda Item from May 7th open meeting.

The following item has been deleted at the request of the Chairman's Office, from the list of agenda items scheduled for consideration at the May 7, 1981, Open Meeting, and previously listed in the Commission's Public Notice of April 30, 1981.

Agenda, Item No., and Subject

Private Radio—2—*Title:* Amendment of Part 90 of the Commission's rules to designate frequencies in the 806-821 MHz and 851-866 MHz bands for slow-growth land mobile radio systems of certain categories of users; to allocate frequencies in these bands for specific groups of radio services frequency pools; to facilitate authorization of wide-area mobile radio communication systems on frequencies allocated for trunked systems; and to allocate additional frequencies in these bands to loaded Specialized Mobile Relay-Trunked systems located in areas having all presently allocated trunked frequencies assigned (PR Docket Nos. 79-191 and 79-334; RM-3691). *Summary:* The FCC will consider whether to adopt a Further Notice of Proposed Rule Making that acts upon petitions for reconsideration of its Report and Order making special provision for slow-growth private land mobile radio systems in the 806-821 MHz and 851-866 MHz bands for certain categories of radio users (PR Docket No. 79-191, FCC 80-663, released December 10, 1980); whether to allocate frequencies in these bands, which have been held in reserve, for specific groups of radio services frequency pools; whether to adopt proposed rules facilitating authorization of wide-area mobile radio communications systems on frequencies in these bands allocated for trunked systems (PR Docket No. 79-334, FCC 79-855, released January 3, 1980); and whether to institute rule making to allocate additional frequencies in these bands to loaded Specialized Mobile Relay-Trunked systems located in areas having all presently allocated trunked frequencies assigned (RM-3691).

The following item has been deleted at the request of Dick Shiben, Chief, Broadcast Bureau, from the list of agenda items scheduled for consideration at the May 7, 1981, Open Meeting, and previously listed in the Commission's Public Notice of April 30, 1981.

Agenda, Item No., and Subject

Television—2—*Title:* Southern Television Corp. *Summary:* Application filed by Southern Television Corporation for authority to construct a new UHF television translator station in Columbia, Mississippi. A petition to deny filed by Columbus TV Cable Corp. Petitioner alleges that grant of the application will result in a regional concentration of control in violation of Section 73.636 of the Commission's Rules.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: May 5, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-716-81 Filed 5-5-81; 12:46 pm]

BILLING CODE 6712-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby givern that at its closed meeting held at 12:00 Noon on Monday, May 4, 1981, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania, and First Pemsylvania Corporation, Philadelphia, Pennsylvania.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting

open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4) and (c)(8) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4) and (c)(8)).

Dated: May 4, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-716-81 Filed 5-5-81; 12:46 pm]

BILLING CODE 6714-01-M

8

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, May 12, 1981 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel. Compliance. Litigation. Audits.

* * * * *

[Federal Register No. 680]

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, May 5, 1981 at 10 a.m.

CHANGE IN MEETING: The following matter has been added:

Proposed responses to additional questions posed by Senator Ford.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-717-81 Filed 5-5-81; 2:41 pm]

BILLING CODE 6715-01-M

9

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, May 14, 1981.

PLACE: Room 532 (open); room 540 (closed), Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to public.

(1) Oral Argument in Beatrice Foods Co., et al., Docket No. 912.

Portions closed to the public.

(2) Executive Session to follow Oral Argument in Beatrice Foods Co., et al., Docket No. 9112.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

[S-713-81 Filed 5-5-81; 9:56 am]

BILLING CODE 6760-01-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 May 11, 1981, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Wednesday, May 13, 1981, at 2:30 p.m., 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).

Acting Chairman Loomis and Commissioners Evans and Friedman determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, May 13, 1981, at 2:30 p.m., will be:

Oral argument on an appeal by Michael E. Tennenbaum, a general partner of a registered broker-dealer, from the initial decision of an administrative law judge. For further information, please contact R. Moshe Simon at (202) 523-4588.

The subject matter of the closed meeting scheduled for Wednesday, May 13, 1981, following the 2:30 p.m. open meeting, will be:

Post oral argument discussion.
Settlement of administrative proceedings of an enforcement nature.
Subpoena enforcement action.
Freedom of Information Act appeals.
Formal order of investigation.

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: Art Delibert at (202) 272-2467.

May 5, 1981.

[S-721-81 Filed 5-5-81; 3:15 pm]

BILLING CODE 8010-01-M

Reader Aids

Federal Register

Vol. 46, No. 88

Thursday, May 7, 1981

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Public Inspection Desk	633-6930
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

Privacy Act Compilation	523-3517
United States Government Manual	523-5230

SERVICES

Agency services	523-3408
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
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Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public briefings: "The Federal Register—What It Is and How To Use It"	523-5235
Public Inspection Desk	633-6930
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5239

FEDERAL REGISTER PAGES AND DATES, MAY

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11992 (Revoked by EO 12305).....25421
12059 (Revoked by EO 12305).....25421
12064 (Revoked by EO 12305).....25421
12084 (Revoked by EO 12305).....25421
12097 (Amended by EO 12305).....25421
12258 (Amended by EO 12305).....25421
12304.....24521
12305.....25421
Proclamations:
4843.....24519
4844.....25077

7 CFR

28.....24927
907.....25423
910.....24523
918.....25423
985.....25424
1032.....24927
1050.....24927
1701.....25079
1942.....24523
Proposed Rules:
419.....24954
1701.....25096
2852.....25097

8 CFR

100.....25425
109.....25079
212.....24929, 25081

9 CFR

73.....25425
82.....24524
92.....24930
331.....24524

10 CFR

Proposed Rules:
Ch. I.....24576
212.....25315
903.....25426
Proposed Rules:
459.....25446

12 CFR

335.....25204
545.....24526, 24531
584.....24526
Proposed Rules:
210.....24576
545.....24579
563.....24579
571.....24579

13 CFR

111.....24931
120.....25083
Proposed Rules:
Ch. I.....24955

14 CFR

39.....24931-24936, 25427-25429
71.....25430-25433
95.....25434
97.....24937
207.....25417
208.....25418
212.....25418
221.....25418
223.....25418
249.....25414
375.....25419
Proposed Rules:
Ch. I.....25466
71.....24957-24961, 25467
75.....25468
374.....25321

15 CFR

376.....24532
377.....24532

16 CFR

13.....24940, 25289
305.....25290
Proposed Rules:
Ch. I.....25468
Ch. II.....25478
13.....25102, 25103, 25476
450.....24584

17 CFR

1.....24940
3.....24940
145.....24940
147.....24940
Proposed Rules:
1.....25106
3.....25106
32.....25106, 25107

18 CFR

46.....25084
131.....25084
270.....24537
271.....24548-24549
282.....24549
294.....24550
401.....25439
Proposed Rules:
157.....24585

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.

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 April 17, 1981

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

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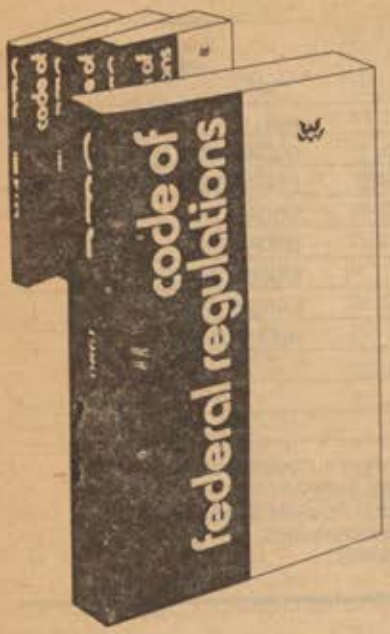
2. The relationship between the Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: May 15 and June 12, 1981, at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call King Banks, Workshop Coordinator, 202-523-5235.



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Revised as of January 1, 1981

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		Total Order	$ _____

A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

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